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House of Representatives

The House was not in session today. Its next meeting will be held on Tuesday, July 10, 2007, at 2 p.m.

Senate

FRIDAY, JUNE 29, 2007

The Senate met at 9:45, a.m. and was called to order by the Honorable SHERROD BROWN, a Senator from the State of Ohio.

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Almighty God, the giver of true freedom, as Independence Day draws near, awaken in us a new appreciation for our Nation, that we apply ourselves to keeping alive a real sense of liberty. Thank You for our Nation's Founders, their ideals, their principles, and their sacrifices. Thank You for the long procession of statesmen and patriots who have guarded our rights and healed our land.

Give our lawmakers a vision so pure that they will not endeavor simply to build on the sands of time but on the sure foundation of honor and right. Look with favor upon the leaders of our executive, judicial, and legislative branches, imbue them with the spirit of wisdom, goodness, and truth. So rule in their hearts and bless their endeavors that law and order, justice and peace may prevail everywhere.

We pray in Your sovereign Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable SHERROD BROWN led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, June 29, 2007.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable SHERROD BROWN, a Senator from the State of Ohio, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. BROWN thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. REID. Mr. President, today the Senate will be in a period of morning business, with Senators permitted to speak for up to 10 minutes each. There will be no votes today. The next votes are expected to occur Monday, around 5:30; that is July 9.

As I said yesterday, the Senate will vote on the remaining four judicial nominations that are on the Executive Calendar. Also, on Monday, July 9, the Senate will begin consideration of the Defense Department authorization bill, an extremely important bill for all of our military servicemembers in Iraq, Afghanistan, North Korea, and all over the world.

So when the Senate leaves today for the Fourth of July recess and returns on July 9, Members should expect a very busy legislative work period during the month of July.

DELAY TACTICS

Mr. REID. Mr. President, we have tried and tried and tried to get the Republicans to allow us to go to conference on ethics, on lobbying reform and also on the 9/11 Commission recommendations. They have prohibited us from doing that.

In the Senate, there are procedural blocks that can be placed on measures, and they have done that. They have done it for reasons that are fleeting in importance. We were ready to do ethics and lobbying reform, and someone stepped in and said: Well, I don't like the earmark provision, I want them to be handled some other way—a diversion, a dilatory tactic to stop this Congress from doing what it needs to do regarding lobbying and ethics reform.

Republicans are trying to stop reform. We have lived in a culture of corruption during Republican leadership. For the first time in 131 years, someone working in the White House is indicted, the man is now in prison, Scooter Libby. Safavian, head of Government contracting for the President, appointed by the President, handles billions of dollars for the Government contracting, he was led away from his office in handcuffs; he is now in prison.

The majority leader in the House of Representatives was convicted three

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

times within 1 year of ethics violations. He was indicted in the State of Texas. He resigned.

Another Member of Congress is serving jail time for corruption. Abramoff, whose tentacles seem to go throughout this town, is in prison.

Trips to Scotland to play golf, lavish gifts by lobbyists, parties by lobbyists, free travel on airplanes, the legislation that passed the Senate eliminates all that. I have only given a brief capsule of the corruption in this town under Republican leadership. I have only given a brief capsule of what they have done to prevent our going to conference.

I want all of the Republicans to know, I am not going to ask again for unanimous consent to go to conference. When they get ready to go to conference, they can come to us.

But everyone should understand that prior to the August recess, we are going to complete ethics and lobbying reform. We are going to do it if we have to spend nights, weekends, take days out of our August recess. Everyone has had fair warning.

It takes a lot of time to overcome the hurdles they have placed in front of us, but we are going to do that. It will eat up valuable Senate time, but we are going to do it. We are going to complete lobbying and ethics reform. That was the first bill we placed on the agenda, ethics and lobbying reform, to try to have the American people feel better about their Congress and what we do.

I can still remember 9/11. I was in S–219. I was the first one in that room that morning. It was a Tuesday morning. It is when Senator Daschle held his leadership meeting. Senator Breaux came in and said: Flip on the TV, something is happening in New York. We could see one of the buildings burning.

Without elaborating in great detail, the leadership meeting started, someone came and got Senator Daschle. There was an evacuation of this building that took place. There was a plane heading toward the Capitol.

It would take someone living in New York to understand the horror of that day, I believe. But it was a horrible day. There was a 9/11 Commission appointed after great turmoil and consternation. The President fought that for a number of months. Finally, it was done, a bipartisan commission. They came back with recommendations. It has been almost 3 years and those have not been implemented.

We passed in the Senate, as one of our top priorities, implementation of the 9/11 Commission recommendations. Remember, that same commission graded the Bush administration on how they were implementing those recommendations: Ds and Fs.

With the legislation we passed, all As. Once again, the Republicans have stood in our way procedurally and will not let us go to conference. Yesterday someone came in and said: Well, I do not like what happens postaudit; we need to make sure that following the spending of those moneys the audit trail is appropriate.

So do I. So does every member of the Senate. We want this money spent wisely and properly. This is a diversionary, delaying tactic to stop us from doing this.

The President did not want the 9/11 Commission appointed in the first place. He wouldn't implement the recommendations. He is trying to stop the Congress from forcing him to sign a bill.

I will say the same thing on the 9/11 Commission recommendations that I said on ethics and lobbying reform. I am no longer going to come and beg the Republicans to do what is good for the country. It is up to them. When they get ready to do the 9/11 Commission recommendations, come to us and we will appoint conferees immediately and complete the conference within a matter of a couple of days.

Like ethics and lobbying reform, we are going to complete this before the August recess. Now, is that going to shorten the August recess? It is up to the Republicans. But we are going to complete this legislation. It is not right that two of the most important issues facing this country, ethics and lobbying reform—getting rid of the culture of corruption—and implementing the 9/11 Commission recommendations should not go into effect.

The 9/11 Commission recommendations, they are not just for the State of New York, they are for our country, to protect people in Las Vegas and Reno, to protect Hoover Dam, where millions of people cross that bridge every year, to make sure there is not some terrorist act, throwing something over that dam, disrupting power that is generated that goes, most of it, to California, or the water sources, most of which goes to California.

I think this is a very dangerous game the Republicans are playing, delaying the implementation of ethics and lobbying reform and the implementation of the 9/11 Commission recommendations.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period of morning business with Senators permitted to speak for up to 10 minutes each.

The senior Senator from New York is recognized.

POLICY OF OBSTRUCTION

Mr. SCHUMER. Mr. President, I wish to salute our majority leader, Senator REID, for what he said. The bottom line is, these are two very important pieces of legislation.

The other side cannot come up with many substantive objections, none, as we have heard yesterday when they moved to block it. But they have had a policy of obstruct, obstruct, obstruct. Why, you might ask? How does it help a political party? How does it help a Senator to obstruct things that are motherhood and apple pie such as ethics and lobbying reform, the 9/11 Commission, things desperately needed, first by this town and second by the whole Nation and of course my State.

The answer is very simple. When you are divided, as the other side is on about every issue; when you can't lead, as yesterday's immigration bill showed, the President's No. 1 domestic priority—fewer than a quarter of the Senators on that side voted for it—there is only one answer that can unify; that is, obstruct.

There is one problem with that—there are two. The main problem is: It is wrong for America. It is wrong for America. The second is, it does not work politically. That is why we are seeing the fact that so many on the other side are so worried.

So I wish to salute our majority leader. I will—and I know all the Members on our side will—stand with him side by side. If we have to meet at 2 in the morning, if we have to go into the August recess to get these things done, we will.

The Senate gives the minority the power to lay down the gauntlet of cloture and filibuster. You cannot move unless you get 60 votes. Of course, we do not have them. But we are not powerless. The ability to push through those filibusters—even if it means some inconvenience for the Senators—is our right and I salute our majority leader for telling the other side, and more importantly the American people, we will use that right to move the Nation forward.

So I wish to thank our majority leader for doing this. It is the right thing to do. Everyone is put on notice. A little inconvenience for the Senators to make our country safe, to clean up the unethical swamp in Washington, it sure is worth it. I think the majority leader is absolutely correct. I hope the other side will not continue to obstruct. But if they do, we will get these things done because our country and the American people demand no less.

IMMIGRATION

Mr. SCHUMER. Mr. President, I would like to make one other point in morning business and talk about, very briefly, on the events of the day yesterday. Yesterday was a very sad day for America, in two instances, when an ideological extreme group set back our country on immigration.

On immigration, we had lots of prattling, lots of scare tactics. As a result, the immigration bill is paralyzed. That

means something. It means that illegal immigrants will continue to flow into America. The number is 12 million; in 5 years, it will be 20 million. We will have done nothing. It will mean our legal immigration policies will be backward, and thousands of people who should be in this country, because of their skills and because we need them, will not be allowed to enter. We will lose competitive advantage. We hear it all the time, companies wanting to locate in America because they love our system but, because they can't get employees, going to Europe or Asia.

On the immigration bill, a great nation is able to deal with its problems. A great nation leads and overcomes narrow, partisan, and sometimes nasty division to move forward. A great nation fails when it becomes paralyzed. I hope, I pray that what happened yesterday on the immigration bill is not portentous of the future. I hope and pray what happened yesterday on the immigration bill does not portend that we will be tied in a knot on every single issue of major import—education, health care, energy, immigration—and not able to move forward.

The double whammy: Yesterday, the Supreme Court, a new majority—the two new members of the Supreme Court who had impressed upon us their fidelity to stare decisis, to the rule of law, judicial modesty—with one stroke of the pen threw out decades of progress on civil rights in a reading just about everyone who participated in Brown v. Board who is still alive commented on and said that the reading flies in the face of Brown v. Board, despite the fact that the Chief Justice said by allowing segregated schools to continue, he was helping implement Brown v. Board. That is doublespeak, if there ever was. The Nation was set back again.

What is happening? What happened here on the Senate floor yesterday and what happened across the street at the Supreme Court indicates that a narrow ideological minority is setting this country back, paralyzing this country. We live in a vast, changing global world where we need to move forward. We seem paralyzed because of a small ideological minority.

I hope the American people will understand what has happened. I hope the American people will voice their protest. I hope the Supreme Court will come to its senses and not continue on this path of rollback on civil rights. I hope the Senate will come to its senses and come together on a fair immigration bill that deals with our Nation's problems. I pray for the future of this country.

I yield the floor and suggest the absence of quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WEBB. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

IMMIGRATION

Mr. WEBB. Mr. President, I would like to address a few things this morning, some in retrospect of what has been for all of us a pretty emotional couple of weeks of debate, and also looking forward to what is going to occur when we return after the July 4 work period.

The first thing I would like to point out is my admiration for our majority leader for how he handled the situation on the immigration bill. I think it was an extraordinarily difficult situation for our majority leader to have been in, and he did a great job with a very difficult assignment. I think we should back up and remember the bill that was put before us had not gone through debate. It was put together in a bipartisan way but removed from the committee process. In other words, people from both sides of the aisle, including some pretty strong members of the leadership on both sides of the aisle, got together and put together this extraordinarily complex bill, which the President himself wanted to see passed, and then it fell to our majority leader to attempt to get the provisions of the bill through the Senate. So we had a situation where there were members of the other party involved in putting together the components of the bill, we had a President who was urging that the bill be passed, and then our majority leader was the individual upon whom it fell to try to make this happen, with very little cooperation, quite frankly, from the other side.

So I would just like to express my admiration and support for the majority leader for the way he handled himself during this process.

Also with respect to the immigration bill, I think there has been a lot of rhetoric that has flown back and forth over the last 24 hours or so about motivations of individuals and what caused people to vote one way or the other. I think some of this is unfortunate. I think some of the people who have made some of the more extreme comments are going to be looking back at them 4 or 5 years from now and perhaps be a little bit embarrassed. This was an enormously complex piece of legislation. There were parts of the legislation which were very good, and hopefully we can find a way to bring them into law at another time. But there were parts in that legislation which needed to be fixed.

I, personally, as the Presiding Officer knows, attempted to get an amendment through the Senate that, in my view, would have brought fairness to the issue of legalization and practicality—fairness in the sense that the proposed bill was going to legalize every individual, virtually, who had come to the United States in violation of American laws by the end of last year—and I felt strongly for a good bit of time that those who came during a period of lax immigration laws and who were able to put roots down into the community should be provided a path toward citizenship. I made this case during the campaign last year, and by saying that last year, I was viewed to be sort of on the forward edge of where this debate was going to go. But this bill, by reaching out and including virtually everyone who had been here by the end of last year, inflamed the passions of a lot of people in this country who otherwise would support fair immigration reform.

At the same time, the amendment I offered also proposed to eliminate what is called the touchback provision, which would have eliminated—for those people who had been here for 4 years and had put down roots—the necessity for them to go back to their home country in order to apply for a green card.

I think that approach was fair. I regret that the amendment didn't pass. At the same time, I and a number of other people found it impossible for us to vote for the bill as it was coming up with the provision that was so much broader.

The bottom line on immigration now is there are laws on the books. We have seen a lot of talk over the past day or so that immigration reform is dead. These comprehensive immigration reform packages have a way of falling under their own weight because the issue itself is so complex. What we should be doing now, in the next year and a half or so, given that there is an election, is to do everything we can to enforce the laws that are on the books. One idea I like is the $4.4 billion recommendation that was put into title I of this immigration bill that just failed that would go toward border security, and employer certification could well be added to any appropriations bill, where the measure would be relevant and could help existing law.

So for those who are attempting to say that all immigration reform has now skidded to a halt because a flawed bill was not passed by this body, I say let's enforce the existing laws. There are a lot of laws on the books. One of the greatest problems we have had is particularly in the area of workers being hired by employers on a large scale who know they are here without papers. In those sorts of areas, there are laws on the books we need to enforce.

CONFIRMATION OF GENERAL LUTE

Mr. WEBB. Mr. President, yesterday, this body confirmed General Lute of the U.S. Army to be a Deputy National Security Adviser to cover the operations that are ongoing in Iraq and Afghanistan. I voted against General Lute.

I will explain why I voted against General Lute because I believe there is a pretty important principle at stake

with respect to civil-military relations that I think has been ignored over the past 20 years or so. I have no problems with General Lute's qualifications. There was a letter from White House counsel on the issue of constitutionality, which indicated there is no constitutional preclusion from a uniformed officer serving as a political adviser to the President. I found that legal opinion incomplete.

We should understand that the legal opinion came from the counsel to the President. We could not exactly have expected that he would have said anything otherwise. But I find it incomplete in the sense that it did not address the true dangers if we continue to do this as we have been over the past 20 years.

The danger to our system is this: The U.S. military is a decidedly nonpolitical organization. I grew up in the military. At the time I was growing up, my father would not even tell me how he voted because he believed it violated his duty in terms of being a nonpolitical arm of the U.S. Government.

The difficulty, when a President brings an Active-Duty military officer inside the room, in an area where they are giving political advice—not military advice but political advice—unavoidably is that this particular individual then becomes a part of a political administration. If they keep the uniform on, when their tour is done and they go back into the military, they are inseparable from the political administration in which they served, particularly in the eyes of other military people.

So two things happen: One is you have a political entity inside the U.S. military that, in some ways, threatens open dialog inside the military because now you have a former member of a particular administration inside the uniformed circle.

Here is a good parallel. I was Assistant Secretary of Defense and then I was Secretary of the Navy. Let's say we allow military people who become Secretaries of the Navy to go back into uniform and compete for promotion among other uniformed people. It is a very difficult thing in terms of how it affects the neutrality of the American military, and also it creates, in many military people, the notion that they have to become political in order to succeed. We don't want that.

I would have voted in opposition to the other individuals who were named by Senator WARNER yesterday as people who have served in administrations and then returned to the military, including Colin Powell, whom I respect personally; General Scowcroft, whom I admire greatly; and, quite frankly, the sitting Director of the Central Intelligence Agency today.

I believe any uniformed officer who agrees to serve as a policy adviser inside an administration, with political implications to that job, should agree to take the uniform off and not return to the active military. I intend to pursue this over the coming years. This isn't related directly to General Lute. It is a principle that I think we need to establish here in the Congress.

TROOP ROTATION

Mr. WEBB. Mr. President, the third point I wish to make, looking forward, is that when we return, we are going to be looking at the Defense authorization bill. I am going to be introducing an amendment when this bill comes up that, in my view, speaks directly to the welfare of our troops and their families. After more than 4 years of combat operations in Iraq and Afghanistan, we still have not developed the type of operational policy that looks to the welfare of the people who are having to serve again and again. We have allowed the strategy, such as it is—which is all over the place—to define the use of our troops, and we have reached the point, as we work to resolve our situation in Iraq and dramatically reduce our presence—I hope—where we are burning out our troops.

The evidence is everywhere. We have a small group of people who have been carrying the load for this country. They have been going again and again. We are violating the normal rotation policies that we took great care to put in place over long years of experience. Traditionally, in the U.S. military, on the active side, there is a 2-for-1 ratio. If you are gone for a year, you are back for 2 years. If you deploy at sea for 6 months, you are back for a year. That is not downtime; that is well time. When I say it is not downtime, that means they are not sitting around doing nothing when they are back. When people return from deployment, they have to reacquaint themselves with their families and take care of those sorts of things. They have to gear units back up, get the equipment, train, lock on, and go to different training areas. So the 2 for 1 generally is split: a third gone, a third recuperating and getting ready, and a third getting ready to go.

What we have today in the ground forces of the active military is not even a 1 for 1. People are returning and immediately getting ready to go back. We are seeing the wear and tear of this on our Armed Forces. The West Point classes of 2000 and 2001 are the most recent ''canaries in the coal mine,'' if you want to look at what is happening to the Active Duty military because of these continuous deployments. The time has not been made available to do other things when they return. The West Point classes have a 5-year obligation before an individual can leave the military. The West Point classes of 2000 and 2001—the two most recent classes—have an attrition rate that is five times as high as the attrition rates before the Iraq war. The West Point class of 2000 had lost 54 percent of its members from active duty by the end of last year. I don't know the number for today. The class of 2001, with an active obligation which ended as of last June—only last June—by the end of last year, within 6 months, had lost 46 percent of its class. You are seeing the same thing in the staff NCO ranks. We are starting to see it in a way that I cannot recall since probably the late 1970s, when the bottom fell out particularly of the U.S. Navy.

In the Guard and Reserve, the normal rotational cycle is 5 to 1. What we are seeing now in many units is less than 3 to 1. So I am going to introduce a bill that will basically say that on the active side, however long an individual has been deployed, they have to be allowed to stay home at least that long before you send them back. If you are Guard and Reserve, however long you have been deployed, you have to have been at home at least three times that length before you are sent back because of the nature of the Guard and Reserve.

In my view, this amendment is an absolute floor; it is our absolute duty as fiduciaries of the well-being of the people who serve that we don't let it go beyond that. As a point of reference again, in the Army right now, they have gone on 15-month tours with only 12 months at home. Historically, if you were gone 15 months, you should have 30 months at home. This needs to be fixed. I hope the Senate will overwhelmingly support us.

There are two questions about this policy that have come up in my discussions on the Armed Services Committee. The first question from some is, is it within the Constitution for the Congress to tell the Commander in Chief what the rotation cycle should look like? My answer is that it is clearly within the Constitution. Congress has the power to set these sorts of regulations. In fact, there is precedent. If you look at the situation of the Korean War, where because of the emergency of the attack from North Korea, we were sending soldiers into Korea who were not trained—they never fired a weapon before—because they had to fill the bill of going over there. The Congress stepped in and said you cannot send any military person overseas until they have been in the military for 120 days. That was the Congress properly exercising its constitutional prerogative in order to protect our troops. This is what we are going to do.

The second issue that has come up is whether this is micromanagement. Quite frankly, when the leadership of the U.S. military is not stepping up and defending their own people, we have a duty to slow this thing down. This war has been going on for more than 4 years. We have a lot of issues we are going to be discussing in this authorization bill that are designed to get a better policy that will reduce our footprint, that will enable us to fight international terrorism around the world, that will increase the stability of the region with proper diplomatic efforts and will allow us to address our strategic interests elsewhere.

But until that happens, we have to take care of the troops. This is the bottom line, the floor. This isn't some grand scheme of trying to push an ideal troop rotation scenario. This is the bottom line we owe to the people who have been sent into harm's way.

I may be one of the few people in this body who has had a father deploy, who has deployed, and who has had a son deployed. I think there are a lot of people in the country who are that way, who right now are looking at their level of being sent into harm's way. They are looking for somebody to put some logic into how their levels are being used. It is on us, Mr. President.

With that, I yield the floor.

The ACTING PRESIDENT pro tempore. The senior Senator from Florida is recognized.

Mr. NELSON of Florida. Mr. President, while the junior Senator from Virginia is here, I wish to commend him. I wish to say, first of all, he is an exceptionally passionate and knowledgeable source of valuable information to us on the Armed Services Committee. The proposal he has outlined, which will be in the form of an amendment to the Department of Defense authorization bill, has exceptional common sense attached to it—that you don't deploy troops unless they are trained and unless they have enough time to reevaluate, reequip, rearm, and retrain.

I thank the Senator for his contribution. I am certainly inclined to support his amendment. This Senator from Florida will have an amendment that we have been trying for 7 years to pass to take care of the widows and orphans. Even President Lincoln, in his second inaugural address, said that one of the greatest obligations in war is to take care of the widow and the orphan. The U.S. Government ought to plan as an expense of the cost of a war taking care not only of the veterans but of their widows, widowers, and orphans.

What we have done in law is, where we provide for a survivor's benefit plan that the military member pays for out of their check, that plan, in fact, is offset by the disability compensation that family member gets from the Veterans' Administration. This Senator is going to continue this quest until we finally prevail to get that offset removed.

Of course, the objection to it is it costs $9 billion over 10 years. But is it an obligation of the Government to take care of the widow and the orphan as a result of war? This Senator passionately and firmly feels it is.

I wanted to lay that out as a marker, along with my congratulatory comments to the Senator from Virginia for his wonderful service in the Senate, his insightful service as a member of the Senate Armed Services Committee, and his very commonsense approach to this DOD authorization bill and the amendment he will be offering.

I will yield to the Senator if he wishes to make any followup comments. I wish to share with the Senate something that occurred in the Appropriations Committee yesterday that is quite disturbing.

Mr. WEBB. Mr. President, I thank the Senator, if he will yield for 2 minutes. I very much appreciate my good friend's comments in support. It means a lot to me that he has that kind of confidence in the approach I will be trying to take here.

Also, I am pretty familiar with how the survivor benefit program has been misused. My mother was a benefit of the survivor benefit program. I don't think there is a strong recognition up here that is a private insurance program that is paid into and is separate from other benefits. My father paid into that program more than $200 a month from 1969 until his death in 1997. Then when my mother got the benefit, they offset it at that time, I believe, from a Social Security payment that he also paid into.

There are inequities in how that program has been administered and how it interacts with other areas of Federal law. I will be happy to explore that with the Senator and see if we can't come up with some kind of solution.

Mr. NELSON of Florida. I say to the Senator, Mr. President, that the young corporals and privates who are not returning home from Iraq and Afghanistan, who leave widows and children who are paying today out of their own paycheck into that survivor's benefit plan, of which in that insurance program their survivors are entitled, that, in fact, because of the current law of the offset, they don't get that which has already been paid for by the active-duty military member because of the eligibility of the widow and the children under the indemnity compensation through the Veterans' Administration. The current law offsets one against another.

What is so sad is that the survivors, the widows and children of these young corporals and privates, are finding it very difficult to make financial ends meet as a result of that offset.

This Senator is going to give the Senate an opportunity to change that in 2 weeks when we are on the DOD bill. If the Senate responds as we did last year and the year before in passing it, then we are going to have to insist when it gets down to a conference committee with the House it doesn't get stripped out like the House leadership last year and the year before did in stripping out what the Senate has passed.

I share that with my friend from Virginia.

Mr. WEBB. I thank the Senator.

BREAKING THE AGREEMENT

Mr. NELSON of Florida. Mr. President, I wish to tell a story that is quite disturbing that happened in the Appropriations Committee yesterday. The Appropriations Committee, as reported to this Senator, had quite a row yesterday in the full committee in inserting a provision that will call for seismic exploration for oil and gas in the eastern Gulf of Mexico. It was such a row yesterday because it breaks the agreement that was made on the floor of the Senate last year in which the two Senators from Florida, this Senator and my colleague Senator MARTINEZ, had agreed to a plan by which there can be additional oil drilling and gas drilling in a lease sale 181 that would not be what was sought—about 2 million acres—but it expanded 8.3 million acres in an expanded lease sale 181, but that kept it away from the coast of Florida and away from the military mission line which is the boundary protecting the largest testing and training area for the United States military in the world.

Virtually all of the waters of the Gulf of Mexico off the State of Florida are this testing and training area. It is where we test our sophisticated weapons systems. It is where we test newly developed weapons systems. It is where we test weapons systems that have to go hundreds of miles, all of which these systems employ live ordinance under battlefield conditions in order to see that the equipment and the systems and the ordinance are all going to work.

Over and over, we have had letters from the Secretary of Defense to the Senate saying we cannot have oil and gas rigs on the surface in the Gulf of Mexico in the area where we are doing all this testing and training.

One wonders why, in the last round of the base realignment and closure, did the pilot training for the new FA–22 stealth fighter come to the Gulf of Mexico at Tyndall Air Force Base in Panama City. It is because that system now, in all pilot training, does dogfights at 1.5 mach. That is 1½ times the speed of sound. That is twice as much as the systems we have now, the F–16 and the F–15, twice as much that they do, the speed of air-to-air combat. As a result, they have to have so much wider area in which to have that turning radius as that weapons system is doing its practice in the dogfights shooting live ordinance.

Is it any wonder why, in the development of the new joint strike fighter, the F–35, that the F–35, once it is developed, all the pilot training for the Navy, for the Air Force, and for the Marines will take place on the gulf coast and it will take place at Eglin Air Force Base. Why? The same reason. We have that restricted airspace in the largest testing and training area in the world, and now we have a breaking of the agreement as a result of yesterday's Appropriations Committee action, a breaking of the agreement that we had last year when this Senator and my colleague from Florida agreed we would have the expansion of lease sale 181 when it would not intrude into the military mission area.

Now the Senator from Idaho, Mr. CRAIG, and the Senator from North Dakota, Mr. DORGAN, want to propose

seismic exploration and inventorying of oil almost all the way up to the coast. Why do they want to do an inventory for oil unless they want to drill? This is exactly the situation that the oil industry will not give up. They want to drill, drill, drill, and that has been part of our problem for five decades as we have gone through this drill, drill, drill mentality without going to alternative energy sources. That is what has led us to the point we are today—so dependent on oil—and even to the point of now importing 60 percent of our daily consumption of oil is coming from places such as the Persian Gulf, Nigeria, and Venezuela, all very unstable parts of the world.

Back to the breaking of the agreement. It was broken with regard to what we agreed to last year, that it was over and done with. We were going to protect the military mission area. That was broken yesterday in the Appropriations Committee.

Another thing that was broken in the Appropriations Committee was the fact that in our agreement, the two Senators from Florida had clearly tried to protect a $57 billion a year tourist industry that depends on pristine beaches. Our tourism economy depends on those beaches not having oil slicks slapping up onto those pristine white sands.

Naturally, the Senators from Florida are going to protect that interest. People say: Oh, no, the spills that occur don't come from the oil rigs out there, they come from tankers. But isn't it interesting that we have so many photographs of oil rigs and oil slicks in the Gulf of Mexico as a result of Katrina raging across the Gulf of Mexico and ultimately hitting Mississippi and Louisiana? We have pictures of oil rigs that are up-ended on the shore. We have pictures of pelicans, hundreds of pelicans that are dying, covered in oil slicks as a result of that storm causing the spills from those oil rigs. Now, we don't want that in Florida. We want to protect our beaches.

It would be one thing if the geology showed there was a lot of oil and gas in the eastern Gulf of Mexico. But for the past 50 years, in the exploratory wells that have been there, there have been dry holes. The geology shows there is not that much oil and gas. Yet the oil industry never gives up, regardless of the agreements that have been made and were broken yesterday in the Senate Appropriations Committee. So it leaves no choice—no choice to the Senators from Florida. Senator MARTINEZ and this Senator will employ every available rule to us under the Senate Rules Committee to block the progress of that Energy appropriations bill as it comes to the floor.

There were representations made yesterday to this Senator and to Senator MARTINEZ that the leadership of the appropriations subcommittee will, in fact, strip out that part of the bill when it comes to the floor. I take those Senators at their word. If that is the case, we will not have a big fight on the floor of the Senate, and we can proceed and go about appropriating the monies that we need in an energy and water appropriations bill—much needed funding for so many projects.

Mr. President, it is with a realistic heart that I have to make this speech today. So it comes to this. I will take the word of those Senators, and I will rely on their word that we won't have to engage in all kinds of parliamentary maneuvers. But if that be necessary, it will be done.

Mr. President, I yield the floor, and I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SESSIONS. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Ms. KLOBUCHAR). Without objection, it is so ordered.

FIRING OF U.S. ATTORNEYS

Mr. SESSIONS. Madam President, we have had an unfortunate event occur. The Senate and House Judiciary Committees have issued subpoenas to the President for internal personal communications with the President's own personal staff and documents related thereto in a matter unrelated to a criminal investigation. A political inquiry is all this is about. Yesterday the President had to assert executive privilege and refuse to produce a very certain, limited number of documents relating to the replacement of U.S. attorneys around the country.

I served as a U.S. attorney for 12 years. I know U.S. attorneys serve at the pleasure of the President. I know U.S. attorneys on a few occasions actually try cases and get involved in cases. I did pretty often. I tried some fairly big cases. Most U.S. attorneys in larger offices preside over the office and career assistant U.S. attorneys and FBI agents and so forth and investigate cases and prosecute them. That is the way it goes.

The reality is that they can be removed at any time by the President. It is not a congressional function to determine whether or not a U.S. attorney is removed. The Congress is involved only in the confirmation of U.S. attorneys.

The President and Attorney General Gonzales did not handle the recent resignation of 8 U.S. Attorneys very well. I believe they thought they could do it and not really have much of a reason for it, yet say they thought performance was not good. Maybe they simply wanted to replace that attorney with someone else. But U.S. attorneys have friends in law enforcement. They have friends in the local community. They have Senators who recommend them and help them get confirmed. They have clout. It became a big brouhaha. There was a big dispute about it, and various accusations were made.

I was present for the hearings before the Judiciary Committee. Frankly, most of the accusations have been proven baseless. But in explaining it all, the Attorney General and some of his staff did not do a good job. They embarrassed the Department, frankly, and fed demands for more and more and more to keep this story alive, to keep this matter going. Now we are at the point where subpoenas have been issued.

The committee issued five subpoenas on June 13. Two of the subpoenas were issued to the White House for documents to be produced on or before June 28, 2007. A third subpoena was issued by the House Judiciary Committee to Harriet Miers for both documents and testimony, for a response by July 12. Harriet Miers was a lawyer for the President. She was White House Counsel. The fourth and fifth subpoenas were issued by the Senate Judiciary Committee to Sara Taylor for documents and testimony respectively and called for a response on or before June 28 and testimony for a hearing on July 11.

This is an overreach legally. It is an overreach insofar as the traditional comity that should exist between coequal branches of Government. Executive privilege is not a principle that should be lightly dismissed. It is a very real, legitimate principle that our Government has. What would we have next? Would we want to be subpoenaing the law clerks for Justice Stevens and Justice Ginsburg and Justice Roberts of the Supreme Court to see what those staffers told the judges before they rendered their ruling? What about Senators and our staffs? How about that?

This has not been a stonewalling by the administration on the U.S. attorneys issue. The Department of Justice has released or made available for review approximately 8,500 pages of documents. Top officials in the Department of Justice, including the Attorney General himself, the Deputy Attorney General, Paul McNulty, the Attorney General's former chief of staff, and many other officials have testified at public hearings and submitted themselves for on-the-record interviews to answer any questions. The President offered to go even further by providing Congress with additional documents, to make available for interviews the President's former Counsel, Harriet Miers; Karl Rove, his political counselor; Deputy Counsel, Bill Kelly; former Director of Political Affairs, Sara Taylor; Scott Jennings, Special Assistant to the President. All of those would be made available to be inquired of.

That was an effort by the executive branch to satisfy the curiosity of the legislative branch and to go as far and even further, maybe, in my view, than required by law. That was a genuine, generous suggestion as to how to handle this conflict between the two branches, our desire to look in there and see everything that went on and pry open the lid and probe and fish a little bit and see what we find and a legitimate right of a President to have a

staff that responds to his or her demands and gives the President unvarnished advice, pointing out problems, honestly and openly, without any expectation it is going to be on the front page of the New York Times the next day, for heaven's sake.

So I just want to say, I am sorry and disappointed our chairman, Chairman LEAHY, has utilized the power the committee gave him to decide whether to issue a subpoena or not, to actually issue subpoenas.

So now what has happened? The President said: These subpoenas go too far. Even so, I am not afraid to have my people talk. The President has offered that Harriet Miers come to the Hill and be interviewed by the Judiciary Committee. But in preserving the historic integrity and confidentiality of a President and their own staff, the President does not want to produce confidential communications made to him by his staff. I think it would erode any President's legitimate prerogative, for time immemorial, if Congress were able to do that.

I would suggest we in this Senate can understand that. Who of us would want our chief of staff to be hauled in to some committee when there is no suggestion of a criminal offense having occurred and then being cross-examined on everything our chiefs of staff told us? I just met with my chief counsel, Cindy Hayden, and we talked about these issues. She is an excellent lawyer. We have recently met and talked about the immigration bill that the Senate was debating.

Maybe the White House, which took a different view than mine on immigration, would like to embarrass me by issuing subpoenas to see if they could find out something in memos or documents or conversations we had about the bill and the flawed legislative process that brought it to the floor.

The executive branch has the power of subpoena also. Would our Members over here on the Senate Judiciary Committee be happy if the White House issued subpoenas to find out if any of our Members may have delayed the confirmation process in order to impact the outcome of some case that might be pending before a court of appeals at a given time in a given State?

Would we want to have all that happen to us? If these are criminal things, you get to do that. If they are not criminal things, comity, respect between our branches would suggest that any leader have certain rights to have candid, confidential communications with their own staff about matters of great importance to our Nation. The courts have it. Congress has it. The executive branch has it. There is case law that has addressed this type of privilege. Executive privilege is not something that is made up; it is something that is very real.

Now, I am not one who would want to come in and predict how cases would come out, but based on the openness the President has shown with regard to providing to the Congress his staff people for interviews, I am not sure there is a legal basis for this.

Yes, in the meantime, it will look good politically. Those who issued the subpoenas—and are proud of themselves, knowing the President probably will never be able to accept this and would have to resist and have to object—can accuse him of hiding. They can accuse him of stonewalling. They can say he is in denial, that he will not cooperate with the Congress, that he is operating in secrecy. These baseless accusations will just further fuel the charges people have made about this good man who is trying to serve the country the best he can. I certainly believe that.

So here we are. Chairman LEAHY issued the subpoenas. Now the President has objected, which he has a perfect right to do. What happens now? There are several options, one of which is to litigate. If that path is chosen, a court will have decide it. It will go to the courts, and there will be an argument whether there is a legitimate evoking of executive privilege.

I wish it had not happened. That is all I am saying. We, I believe, have overreached in this instance. I cannot imagine we would want to demand that the President's own lawyer, Harriet Miers, be required to produce every memo she gave to the President and every conversation she had about any matter in the White House unless it amounted, as I said, to some criminal offense, which nobody is suggesting has occurred here. It is just not good policy, and we have to be bigger than short-term politics in this Senate. We have to be bigger than that.

I want to say, in my best judgment, we should not have shoved it this far. We have overreached. The President does have a legitimate claim of executive privilege. Over 8,500 documents and e-mails that went from the White House to the Cabinet Department, the Department of Justice, have been produced. It is only those conversations and communications between the President's closest advisers and the President himself which the White House feels should not be produced because of the historical implications of it for Presidents in the future. In this instance, I think the President is within his rights.

My best judgment, based on what I know today, is that this is not legitimate under our current law, and it is absolutely not justified under our discretion as Members of Congress. We ought to have more respect for the other branch than to push this request beyond the limits to the point we have today.

So, Madam President, I want to be on record to say that I understand why the President would object to making these disclosures of internal communications between the President and his own personal, closest staff, after, of course, having produced communications between he and his staff and the Department of Justice that have been produced and making those staff members available for private inquiry among the leadership of the Congress. I think that was a real strong gesture of openness, but that was promptly rejected because I think some in the Congress—Senate and House—would rather have a fight and try to make a political point than actually get to the truth of those matters.

Madam President, I thank the Chair and yield the floor.

Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

IRAQ

Mr. REID. Madam President, this Sunday is the halfway mark of the year 2007. It is also the 2-month mark since President Bush vetoed the supplemental appropriations bill we sent to him which would have set a responsible path to reduce our combat operations, save lives, and finally change course in Iraq. President Bush called our bill a ''recipe for chaos.''

Now that 2 months have passed, here is what has happened under the President's escalation plan. It is clearly chaos: 126 brave Americans died in May alone, and more than 100 in June. This quarter has been the deadliest in the entire war. Sectarian killings have not declined. Yesterday, more than 20 Iraqis were beheaded. There is little evidence the Iraqi Government will meet any of the political benchmarks they have set for themselves. The surge was supposed to create the space for Iraq's political leaders to make the difficult decisions to unite their country. That has not occurred.

I have said from the beginning that as long as President Bush remains obstinate and the Republicans in Congress continue to toe his line, this tragic war will continue. There is no sign of President Bush awakening to the devastating reality of this intractable war. But this week, there is new reason for optimism in that my Republican colleagues in the Senate are finally willing to join in calling for a new direction.

A couple of days ago, on Tuesday, I congratulated the ranking member of the Foreign Relations Committee, Senator RICHARD LUGAR, for courageously breaking ranks with President Bush and calling for the war to end. Senator LUGAR said, among other things:

> Persisting indefinitely with the surge strategy will delay policy adjustments that have a better chance of protecting our vital interests over the long term.

I agree with those words.

The day after Senator LUGAR's comments, another distinguished Republican on the Foreign Relations Committee, GEORGE VOINOVICH, wrote a letter to the President. In the letter, Senator VOINOVICH urged the President to wake up to the truth that so many of us already know: that the war cannot be won militarily.

It can only be won politically. Yet another distinguished member of the Armed Services Committee, Senator WARNER, then said he expects the number of Republican defections with the President to rise.

I am encouraged by what we are hearing now from Republican Senators, even though it is only a handful. But when you join these three Senators with Senators SMITH and HAGEL, we are up to five. We still have 44 to go.

I said earlier this week that this could and should be a turning point. After the recess, we will turn to the Department of Defense authorization bill, which is our next chance to force the President to change course.

But we are still a long way from reaching our goal. More Republicans are saying the right things, but now we badly need for them to put their words into action by voting the right way also.

The current handful of Republicans isn't enough. We would not be able to get any legislation passed without 60 votes, but we are getting closer. We are not where we need to be yet.

In May, as I said, the President called our plan a ''recipe for chaos.'' Each day that goes by we sink further and further into the President's escalation, and it becomes even clearer that the best way to ensure chaos, death, devastation, and destruction is to stick with the President's failed policy. Let's go with our plan, which is not chaos but stability and the saving of people's lives.

As we leave for the celebration of our Nation's birthday, the Fourth of July, I ask my colleagues to listen to the call of the American people. Choose the path that honors our troops, makes our country safer at home, and stronger abroad.

When we return next week, let's get to work on a responsible new direction that Americans demand and deserve and, in fact, is long overdue.

INDEPENDENCE DAY

Mr. BYRD. Madam President, next Wednesday is July 4, Independence Day, the grand national celebration of our Nation's beginning. The Senate and the House of Representatives will be quiet, in recess so that Members can join in Independence Day celebrations around the country with constituents, families, and friends.

On July 4, summer is approaching its zenith. The days are hot and sunny. Water in all forms lures children into the heat—in the country, shady streams offer relief; in urban areas, fountains or even fire hydrants answer the call, while across the country, swimming pools offer watery fun with an accompanying musical soundtrack of splashing and laughter. Even summer thunderstorms do their bit to cool things down while displaying nature's power and majesty as the lightning cracks and the thunder booms.

Fourth of July celebrations are a wonderful time to glory in all that is good about the United States. Flags and fireworks, picnics and parades, mellow afternoons and martial music—everything about Independence Day is grand. As we join together to remember the bravery that led our Founding Fathers to draft the Declaration of Independence, the long struggle to win our freedom, and the enlightened wisdom that resulted in our unique and wonderful Constitution, the love of our Nation that is the true spirit of patriotism is renewed. Surrounded by the happy faces of our diverse population enjoying their small town parades, music under the stars, family picnics and the grand finale of the fireworks displays, we can be sure that our Founding Fathers chose well when they gambled on a new nation in which ''all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty, and the pursuit of Happiness.''

On Independence Day, when laughing children run with their sparklers to compete with the fireflies, we are also reminded of our own obligation to preserve for them all that is good about these United States. In this, we may also look to the Declaration of Independence, which ends with ''a firm reliance on the protection of divine Providence, we mutually pledge to each other our Lives, our Fortunes and our sacred Honor.''

For our Founding Fathers, this pledge was not mere rhetoric—their signatures on the declaration that hot summer in 1776 put at risk their families, their fortunes, their worldly possessions, and their lives. Some, like Edward Rutledge, age 26, were young men, with all of their life's promise ahead of them. Others, like Benjamin Franklin, age 70, were no longer so young, and the prospect of being hunted down for treason could not have been very appealing. Still, he did not shirk from signing and has even been quoted as saying that ''We must all hang together, or assuredly we will all hang separately,'' his witty way of warning the signers that any failure to remain united could result in each of them being tried and executed for treason. History has shown that his warning was not needed.

Through the years of war, even as some of the signers lost their homes or put their fortunes into the war effort, not one of them backed down. For that, we may all be thankful.

Even as the years of war passed, the signers of the Declaration of Independence continued to serve their new Nation. They served as ambassadors for the new United States, as Presidents and Vice Presidents, as Cabinet members, and as a source of inspiration and industry for the fledgling Nation into their old ages. It is fitting that Thomas Jefferson, author of the Declaration of Independence, third President of the United States, Vice President, Secretary of State, Minister to France, Governor of Virginia, colonial and State legislator, founder of the University of Virginia, farmer and philosopher, died at the age of 83 on the Fourth of July, 1826, on the 50th anniversary of the adoption of the Declaration of Independence. He worked and wrote prolifically until the very end of his life, always for the betterment of the Nation.

On the same day, July 4, 1826, John Adams passed away at the age of 91. President, Vice President, Member of the Continental Congress, farmer, and philosopher, Adams remains the longest lived person ever elected to both of the highest offices in the United States. Until his record was broken by Ronald Reagan in 2001, Adams was the nation's longest living President, at 90 years, 247 days. The record is currently held by former President Gerald Ford, who died December 26, 2006, at 93 years, 165 days. Adams and Jefferson's correspondence during their later years remains an invaluable historical record of the early days of our Republic, and their respect for each other was unmatched. Even as he died, Adams is said to have breathed, ''Thomas Jefferson survives,'' in what may have been his final earthly comfort knowing that his friend remained to watch over the young Nation.

Madam President, it is a great privilege to be able to call oneself a citizen of these United States. It is my great privilege to serve the Senate and the people of West Virginia and the United States. I feel that privilege every day but especially on the Fourth of July. I am inspired by our Founding Fathers and by the great documents that are the Declaration of Independence and the Constitution. Like Jefferson and Adams, I am inspired to continue serving the land that I love to the very best of my abilities for the whole of my years.

Madam President, I close with a poem by Walter Taylor Field, entitled ''Flag of the Free.''

FLAG OF THE FREE

Look at the flag as it floats on high,
Streaming aloft in the clear, blue sky,
Rippling, leaping, tugging away,
Gay as the sunshine, bright as the day,
Throbbing with life, where the world may see—Flag of our country, flag of the free!

What do we see in the flag on high,
That we bare our heads as it passes by,
That we thrill with pride, our hearts beat fast, And we cheer and cheer as the flag goes past—The flag that waves for you and me—Flag of our country, flag of the free?

We see in the flag a nation's might,
The pledge of a safeguard day and night, Of a watchful eye and a powerful arm

That guard the nation's homes from harm.
Of a strong defense on land and sea—
Flag of our country, flag of the free!

We see in the flag a union grand,
A brotherhood of heart and hand,
A pledge of love and a stirring call
To live our lives for the good of us all—Helpful and just and true to thee, Flag of our country, flag of the free!

Flutter, dear flag, o'er the lands and seas!
Fling out your stars and your stripes to the breeze, Righting all wrongs, dispelling all fear,
Guarding the land that we cherish so dear, And the God of our fathers, abiding with thee, Will
bless you and trust you, O flag of the free!

IOWA ARMY NATIONAL GUARD

Mr. GRASSLEY. Madam President, today I would like to take a moment to recognize a group of Iowans who distinguished themselves in their service on behalf of the security of the United States. Troop C, 1–113 Cavalry, of the Iowa Army National Guard, brought honor to itself and the State of Iowa while serving in support of Operation Iraqi Freedom. Troop C entered the Iraq theater of operations on October 30, 2005, and completed its mission on October 30, 2006.

Troop C, 1–113 Cavalry was based at Camp Ashraf in the Diyala Province of Iraq. Diyala is one of the most contested provinces in Iraq, and the mission of Troop C, 1–113 Cavalry was to provide perimeter defense at Camp Ashraf, reconnaissance and security patrols, improvised explosive device clearance missions, and convoy escorts. Troop C missions were conducted in such contested cities as Baghdad, Baqubah, and Khalis, as well as anywhere else required. Dangerous does not quite capture the situations that Troop C faced on a daily basis.

During this tour of duty, Troop C, 1–113 Cavalry conducted more than 3,000 missions, drove in excess of 150,000 miles on treacherous Iraqi roads, sustained over 50 improvised explosive devices strikes, discovered more than 25 emplaced improvised explosive devices and provided security while these devices were destroyed; and on a routine basis conducted security missions to Ashraf's West Water Pump Station. Troop C put themselves in harm's way to ensure continual water supply to Ashraf and the surrounding villages. For its actions while performing these missions, Troop C has earned to date eleven Purple Hearts and nearly one-hundred combat action badges.

Battlefield success came at a price. SGT Dan L. Sesker made the ultimate sacrifice, giving his life while conducting a convoy operation in Baghdad.

On May 29, 2006, members of Troop C arrived on scene immediately after 4th Infantry Division Soldiers and a Columbia Broadcasting System news crew were attacked while conducting Memorial Day interviews. The soldiers of Troop C heroically took up the security mission and provided first aid to the wounded Soldiers and news crew. The treatment provided to the correspondent, Kimberly Dozier, saved her life.

Troop C, 1–113 Cavalry deserves the highest praise of this body and the entire Nation. The courage, selfless sacrifice, and dedication to their mission displayed by Troop C exemplifies what is best in our brave soldiers and I am very proud to call them fellow Iowans. It is to the valor of those in Troop C and others like them past and present that we Americans owe our freedom and security today.

SUPREME COURT DECISIONS

Mr. KENNEDY. Madam President, over half a century ago, in Brown v. Board of Education, a unanimous Supreme Court stuck down laws requiring racial segregation in our public schools. Yesterday's decision limiting voluntary efforts to desegregate public schools is false to Brown's promise of equality by making it far more difficult for local school boards to bring students of different races together in the classroom.

The landmark decision in Brown v. Board of Education called on us to honor not only the requirements of the Constitution but also of our consciences. America was made stronger as a result. Although the Brown decision initially met with intense resistance in many parts of the country, it eventually came to be recognized as one of the Court's finest hours.

Yesterday's decision, however, makes it far more difficult to achieve equal educational opportunity for children of all races. Brown was a giant step in ending racially segregated public schools, but achieving integration takes more than a court decision. It takes good will, vision, creativity, common sense, and a firm commitment to the goal of educating all children, regardless of race. Above all, it takes a realistic assessment of local communities to determine what will work to bring students together.

That challenge is difficult to meet, because in many parts of the Nation, neighborhoods continue to be highly segregated by race and national origin. Without specific efforts by local school boards to promote diversity, public schools often reflect the same racial segregation as the neighborhoods around them. As over 500 prominent social scientists who have studied residential segregation explained in their brief in the Seattle and Jefferson County, KY, cases, without voluntary efforts, neighborhood schools cannot achieve the integration that we as a society recognize is so important.

The benefits of integration, both for individual students and for society, are enormous. Children who participate in classes attended by students of many races enjoy greater parental involvement in public schools, and greater cross-cultural understanding. It helps close the racial gap in education by helping African-American children achieve greater academic success. One of the Nation's leading conservative judges, Alexander Kozinski, described Seattle's integration plan as an ''eminently sensible'' ''stirring of the melting pot,'' which helps children learn to interact as citizens of our common society. Without integrated schools, children will not learn these important lessons. That's a result we cannot afford.

Local school boards such as Jefferson County's have transcended the legacy of Jim Crow segregation to achieve not only enhanced opportunities for students but greater cooperation, participation, and genuine friendship between children of different races. We should honor that achievement. We should also ensure that school districts such as Jefferson County's, that do not want to return to the days of all-White and all-Black schools, receive the support and information needed to continue that success.

The Court's ruling undermines the important goal of racial integration by ignoring the real world consequences of its decision. Ironically, Chief Justice Roberts, who helped form the majority on this decision, stated at his confirmation hearing that this was something he would not do.

My first question to John Roberts at his confirmation hearing was about Brown v. Board of Education. I asked whether he agreed that the Court in Brown properly based its opinion on ''real world consideration[s] . . . at the time of its decision.'' ''Certainly, Senator,'' he responded, ''you have to look at the discrimination in the context in which it is occurring.''

Yet his plurality opinion in yesterday's decision ignores the context of Brown that Chief Justice Roberts said at his hearing was so important. In fact, Chief Justice Roberts would have gone even further than a majority of the Court and argued to outlaw virtually any use of race in voluntary efforts to integrate public schools.

The central tragedy in Brown was society's abandonment of African-American children to second-class schools. Every child relegated to such schools is harmed. Chief Justice Roberts' opinion disregards that reality by defining the only harm in Brown as the consideration of race in assigning children to school. The harm to these children is not less just because their segregation is the result of housing patterns rather than discriminatory laws. The cruel irony of the Chief Justice's view is that it would undermine Brown by ensuring that thousands of minority children would continue to attend segregated schools. Fortunately, a majority of the Supreme Court understood that we cannot afford to ignore the harm to students in segregated schools.

Despite professing moderation and promising to uphold precedent, the Court's newest members have already voted to radically limit the Clean Water Act. They have argued that the

Environmental Protection Agency has no power to control air pollution, and overturned a 7-year-old precedent on a woman's right to choose. More recently, they cut back on workers' ability to hold companies responsible for pay discrimination, ignoring the intent of Congress by imposing unreasonably narrow deadlines for pay discrimination claims. But their decision striking down voluntary integration is the most sweeping proof that they failed to be candid about their extreme views when they testified before the Senate in their confirmation hearings.

Fortunately, the views of the newest Justices, which would have made voluntary integration almost impossible, were not shared by a majority of the Court. The majority recognized that local school boards have a compelling interest in preventing de facto racial segregation in public schools, so long as they do so in a way that is narrowly tailored to meet that interest. Although the majority wrongly concluded that the carefully crafted programs in Seattle and Jefferson County, KY, were not permissible, it made clear that local school districts still have the ability to create racially inclusive public schools.

Congress is not powerless to address this important issue. We should support school districts that desire to achieve diversity in their public schools within the limits of the Court's ruling. I plan to hold hearings in the Committee on Health, Education, Labor, and Pensions on the effects of the decisions. It is my hope that those hearings will shed new light on the best way to support schools that want to continue our national progress toward integration in public education.

The words of Brown ring as true today as they did half a century ago. On May 17, 1954, the Supreme Court declared that ''education is perhaps the most important function of state and local governments. . . . It is the very foundation of good citizenship. . . . In these days, it is doubtful that any child may reasonably be expected to succeed in life if he is denied the opportunity of an education,'' and that opportunity ''is a right which must be made available to all on equal terms.''

These words could have been written today. It is up to us to revitalize them for the years ahead. The promise of Brown will never be fulfilled until America opens opportunity to all, not just to some.

Brown showed that even against great odds, we can change America for the better. We must renew our commitment to genuine educational equality for all children in America. Despite yesterday's decision, we must not falter, now or ever. Separate can never be equal. We must continue the racial progress of the last 50 years. Only then will America truly become one Nation, under God, indivisible, with liberty and justice for all.

CURRENCY REFORM AND FINANCIAL MARKETS ACCESS ACT OF 2007

Mr. DODD. Madam President, I ask unanimous consent that the attached letter from the American Council of Life Insurers be printed in the RECORD, along with the materials I submitted for S. 1677, the Currency Reform and Financial Markets Access Act of 2007.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

AMERICAN COUNCIL ON LIFE INSURERS,
Washington, DC, June 21, 2007.

Senator CHRISTOPHER DODD,
Senate Banking Committee, Dirksen Senate Building, Washington, DC.

DEAR CHAIRMAN DODD: I am writing on behalf of ACLI member companies to applaud the focus you have given to market access in Title II of the Currency Reform Act and Market Access Act of 2007. I commend your bipartisan efforts to introduce legislation that recognizes the importance of true and improved market access for all U.S. financial services firms to China's markets.

A more effective, modern and efficient financial sector in China is a prerequisite to successfully addressing a shift in China's export-driven economic stance globally, as well as to ameliorating issues that have complicated the U.S.-China economic relationship, China's WTO implementation and the trade imbalance.

For ACLI member companies, access to China's market cannot be overstated. China is the world's 11th largest insurance market by total premium volume (8th by life insurance), up from 16th in 2000, with premium volumes of almost $68 billion in 2006—life premiums accounted for the lion's share at $48 billion, a near threefold increase since 2001. Although ranked in the top ten globally, China's life market is under-penetrated. As China's burgeoning middle class grows, incomes grow, and consumptions patterns change, average yearly per capita expenditures on life insurance will surge—predictions are that China will rank among the world's largest life insurance markets by 2020.

While China has come a long way in opening up its life insurance market, in another arena, up until last year, there was no formal supplementary retirement savings program in China despite the fact that it began dismantling its ''cradle to grave'' social safety net beginning in the 1980s. Pensions are largely unfunded, under-funded or non-existent for scores of citizens. China is only now beginning to appreciate the critical role that enterprise annuities needs to play in providing retirement security to Chinese households.

To address the pension gap, Chinese regulators started in the spring of 2005 to establish an Enterprise Annuity Pension System (EA)—as a second pillar individual account, defined contribution retirement program (similar to our 401(k)). Conservatively, our estimates indicate that within 10 years the assets under management for this program should be close to $100 billion. Within 25 years they should reach $1 trillion. While a number of foreign firms have been licensed to provide custodial, trustee, management, and related services for pension assets, no American firm has been licensed to underwrite pension products directly.

Participating in the type of growth noted above is paramount for firms in worldwide life insurance and retirement benefits leadership positions. It is equally important for China's economic leadership, regulators and industry to view our greater involvement and participation as win-win for the economy, consumers, and capital markets generally.

For these reasons, I look forward to working with you on efforts such as this to shine light on market access issues that can be addressed in China to improve opportunities for ACLI companies to participate in the Chinese market.

Sincerely,

FRANK KEATING.

MESSAGES FROM THE HOUSE

At 9:59 a.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 2829. An act making appropriations for Financial Services and General Government for the fiscal year ending September 30, 2008, and for other purposes.

The message also announced that, in accordance with the request of the Senate, the bill (S. 1612) entitled ''An act to amend the penalty provisions in the International Emergency Economic Powers Act, and for other purposes,'' and all the accompanying papers were hereby returned to the Senate.

The message further announced that pursuant to section 801(b) of Public Law 101–696 (2 U.S.C. 2081(b)), the Chairman and Vice Chairman of the Joint Committee of Congress on the Library serve ex officio on the U.S. Capitol Preservation Commission, but each may designate another Member to serve in his or her place; the Vice Chairman and the Joint Committee for the 110th Congress, ROBERT A. BRADY, hereby designates the following Member to serve on the U.S. Capitol Preservation Commission as Vice Chairman of the Joint Committee of Congress on the Library in lieu of himself, as provided for in section 801(c) of Public Law 101–696 (2 U.S.C. 2081(c): Mr. CAPUANO of Massachusetts.

ENROLLED BILLS SIGNED

At 11 a.m., a message from the House of Representatives, delivered by one of its clerks, announced that the Speaker has signed the following enrolled bill:

H.R. 1830. An act to extend the authorities of the Andean Trade Preference Act until February 29, 2008.

The enrolled bill was subsequently signed by the President pro tempore (Mr. BYRD).

At 12:50 p.m., a message from the House of Representatives, delivered by one of its clerks, announced that the Speaker has signed the following enrolled bill:

S. 277. An act to modify the boundaries of Grand Teton National Park to include certain land within the GT Park Subdivision, and for other purposes.

S. 1704. An act to temporarily extend the programs under the Higher Education Act of 1965, and for other purposes.

MEASURES REFERRED

The following bill was read the first and the second times by unanimous consent, and referred as indicated:

H.R. 2829. An act making appropriations for financial services and general government for the fiscal year ending September 30, 2008, and for other purposes; to the Committee on Appropriations.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Ms. MIKULSKI, from the Committee on Appropriations, without amendment:

S. 1745. An original bill making appropriations for the Departments of Commerce and Justice, science, and related agencies for the fiscal year ending September 30, 2008, and for other purposes (Rept. No. 110–124).

By Mr. ROCKEFELLER, from the Select Committee on Intelligence, with amendments:

S. 1547. An original bill to authorize appropriations for fiscal year 2008 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes (Rept. No. 110–125).

S. 1548. An original bill to authorize appropriations for fiscal year 2008 for military activities of the Department of Defense, to prescribe military personnel strengths for such fiscal year, and for other purposes.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Ms. MIKULSKI:

S. 1745. An original bill making appropriations for the Departments of Commerce and Justice, Science, and related agencies for the fiscal year ending September 30, 2008, and for other purposes; from the Committee on Appropriations; placed on the calendar.

By Ms. MURKOWSKI (for herself and Mr. STEVENS):

S. 1746. A bill to provide for the recognition of certain Native communities and the settlement of certain claims under the Alaska Native Claims Settlement Act, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. SPECTER:

S. 1747. A bill to regulate the judicial use of presidential signing statements in the interpretation of Acts of Congress; to the Committee on the Judiciary.

By Mr. COLEMAN (for himself, Mr. DEMINT, Mr. MCCONNELL, Mr. SESSIONS, Mrs. HUTCHISON, Mr. ISAKSON, Mr. CRAIG, Mr. CHAMBLISS, Mr. GRAHAM, Mr. CORNYN, Mr. BOND, Mr. MCCAIN, Mr. COCHRAN, Mr. VOINOVICH, Mr. THUNE, Mr. COBURN, Mr. ALLARD, Mr. ROBERTS, and Mr. KYL):

S. 1748. A bill to prevent the Federal Communications Commission from repromulgating the fairness doctrine; to the Committee on Commerce, Science, and Transportation.

By Mr. KYL:

S. 1749. A bill to amend the Federal Rules of Criminal Procedure to provide adequate protection to the rights of crime victims, and for other purposes; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. CHAMBLISS (for himself and Mr. ISAKSON):

S. Res. 262. A resolution designating July 2007 as ''National Watermelon Month''; to the Committee on the Judiciary.

ADDITIONAL COSPONSORS

S. 65

At the request of Mr. INHOFE, the name of the Senator from Oklahoma (Mr. COBURN) was added as a cosponsor of S. 65, a bill to modify the age-60 standard for certain pilots and for other purposes.

S. 130

At the request of Mr. ALLARD, the name of the Senator from Ohio (Mr. BROWN) was added as a cosponsor of S. 130, a bill to amend title XVIII of the Social Security Act to extend reasonable cost contracts under Medicare.

S. 648

At the request of Mr. CHAMBLISS, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 648, a bill to amend title 10, United States Code, to reduce the eligibility age for receipt of non-regular military service retired pay for members of the Ready Reserve in active federal status or on active duty for significant periods.

S. 691

At the request of Mr. CONRAD, the name of the Senator from North Dakota (Mr. DORGAN) was added as a cosponsor of S. 691, a bill to amend title XVIII of the Social Security Act to improve the benefits under the Medicare program for beneficiaries with kidney disease, and for other purposes.

S. 746

At the request of Mr. ALLARD, the name of the Senator from Iowa (Mr. GRASSLEY) was added as a cosponsor of S. 746, a bill to establish a competitive grant program to build capacity in veterinary medical education and expand the workforce of veterinarians engaged in public health practice and biomedical research.

S. 771

At the request of Mr. HARKIN, the name of the Senator from New Mexico (Mr. BINGAMAN) was added as a cosponsor of S. 771, a bill to amend the Child Nutrition Act of 1966 to improve the nutrition and health of schoolchildren by updating the definition of ''food of minimal nutritional value'' to conform to current nutrition science and to protect the Federal investment in the national school lunch and breakfast programs.

S. 773

At the request of Mr. WARNER, the name of the Senator from New Mexico (Mr. DOMENICI) was added as a cosponsor of S. 773, a bill to amend the Internal Revenue Code of 1986 to allow Federal civilian and military retirees to pay health insurance premiums on a pretax basis and to allow a deduction for TRICARE supplemental premiums.

S. 805

At the request of Mr. DURBIN, the name of the Senator from Delaware (Mr. BIDEN) was added as a cosponsor of S. 805, a bill to amend the Foreign Assistance Act of 1961 to assist countries in sub-Saharan Africa in the effort to achieve internationally recognized goals in the treatment and prevention of HIV/AIDS and other major diseases and the reduction of maternal and child mortality by improving human health care capacity and improving retention of medical health professionals in sub-Saharan Africa, and for other purposes.

S. 819

At the request of Mr. DORGAN, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 819, a bill to amend the Internal Revenue Code of 1986 to expand tax-free distributions from individual retirement accounts for charitable purposes.

S. 902

At the request of Mr. HARKIN, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 902, a bill to provide support and assistance for families of members of the National Guard and Reserve who are undergoing deployment, and for other purposes.

S. 1175

At the request of Mr. DURBIN, the name of the Senator from New Mexico (Mr. BINGAMAN) was added as a cosponsor of S. 1175, a bill to end the use of child soldiers in hostilities around the world, and for other purposes.

S. 1239

At the request of Mr. ROCKEFELLER, the name of the Senator from North Carolina (Mr. BURR) was added as a cosponsor of S. 1239, a bill to amend the Internal Revenue Code of 1986 to extend the new markets tax credit through 2013, and for other purposes.

S. 1337

At the request of Mr. KERRY, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 1337, a bill to amend title XXI of the Social Security Act to provide for equal coverage of mental health services under the State Children's Health Insurance Program.

S. 1406

At the request of Mr. KERRY, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 1406, a bill to amend the Marine Mammal Protection Act of 1972 to strengthen polar bear conservation efforts, and for other purposes.

S. 1415

At the request of Mr. HARKIN, the name of the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of S. 1415, a bill to amend the Public Health Service Act and the Social Security

Act to improve screening and treatment of cancers, provide for survivorship services, and for other purposes.

S. 1418

At the request of Mr. DODD, the name of the Senator from Vermont (Mr. SANDERS) was added as a cosponsor of S. 1418, a bill to provide assistance to improve the health of newborns, children, and mothers in developing countries, and for other purposes.

S. 1455

At the request of Mr. WHITEHOUSE, the name of the Senator from Pennsylvania (Mr. CASEY) was added as a cosponsor of S. 1455, a bill to provide for the establishment of a health information technology and privacy system.

S. 1459

At the request of Mr. MENENDEZ, the name of the Senator from North Dakota (Mr. DORGAN) was added as a cosponsor of S. 1459, a bill to strengthen the Nation's research efforts to identify the causes and cure of psoriasis and psoriatic arthritis, expand psoriasis and psoriatic arthritis data collection, study access to and quality of care for people with psoriasis and psoriatic arthritis, and for other purposes.

S. 1471

At the request of Mr. WHITEHOUSE, the names of the Senator from Pennsylvania (Mr. CASEY) and the Senator from Rhode Island (Mr. REED) were added as cosponsors of S. 1471, a bill to provide for the voluntary development by States of qualifying best practices for health care and to encourage such voluntary development by amending titles XVIII and XIX of the Social Security Act to provide differential rates of payment favoring treatment provided consistent with qualifying best practices under the Medicare and Medicaid programs, and for other purposes.

S. 1593

At the request of Mr. BAUCUS, the name of the Senator from Montana (Mr. TESTER) was added as a cosponsor of S. 1593, a bill to amend the Internal Revenue Code of 1986 to provide tax relief and protections to military personnel, and for other purposes.

S. 1603

At the request of Mr. MENENDEZ, the name of the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of S. 1603, a bill to authorize Congress to award a gold medal to Jerry Lewis, in recognition of his outstanding service to the Nation.

S. 1624

At the request of Mr. BAUCUS, the name of the Senator from Montana (Mr. TESTER) was added as a cosponsor of S. 1624, a bill to amend the Internal Revenue Code of 1986 to provide that the exception from the treatment of publicly traded partnerships as corporations for partnerships with passive-type income shall not apply to partnerships directly or indirectly deriving income from providing investment adviser and related asset management services.

S. 1677

At the request of Mr. DODD, the name of the Senator from North Carolina (Mrs. DOLE) was added as a cosponsor of S. 1677, a bill to amend the Exchange Rates and International Economic Coordination Act of 1988 and for other purposes.

S. 1742

At the request of Mr. THUNE, the names of the Senator from Kentucky (Mr. MCCONNELL), the Senator from Ohio (Mr. VOINOVICH), the Senator from Colorado (Mr. ALLARD), the Senator from Arizona (Mr. MCCAIN) and the Senator from Idaho (Mr. CRAIG) were added as cosponsors of S. 1742, a bill to prevent the Federal Communications Commission from repromulgating the fairness doctrine.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Ms. MURKOWSKI (for herself and Mr. STEVENS):

S. 1746. A bill to provide for the recognition of certain Native communities and the settlement of certain claims under the Alaska Native Claims Settlement Act, and for other purposes; to the Committee on Energy and Natural Resources.

Ms. MURKOWSKI. Mr. President, at the very beginning of the Alaska Native Claims Settlement Act of 1971 there are a series of findings and declarations of congressional policy which explain the underpinnings of this landmark legislation.

The first clause reads, ''There is an immediate need for a fair and just settlement of all claims by Natives and Native groups of Alaska, based on aboriginal land claims.'' The second clause states, ''The settlement should be accomplished rapidly, with certainty, in conformity with the real economic and social needs of Natives.''

Mr. President, 34, going on 35, years have passed since the Alaska Native Claims Settlement Act became law and still the Native peoples of five communities in Southeast Alaska—Haines, Ketchikan, Petersburg, Tenakee and Wrangell—the five ''landless communities'' are still waiting for their fair and just settlement.

The Alaska Native Claims Settlement Act awarded approximately $1 billion and 44 million acres of land to Alaska Natives and provided for the establishment of Native Corporations to receive and manage such funds and lands. The beneficiaries of the settlement were issued stock in one of 13 regional Alaska Native corporations. Most beneficiaries also had the option to enroll and receive stock in a village, group or urban corporation.

For reasons that still defy explanation the Native peoples of the ''landless communities,'' were not permitted by the Alaska Native Claims Settlement Act to form village or urban corporations. These communities were excluded from this benefit even though they did not differ significantly from other communities in Southeast Alaska that were permitted to form village or urban corporations under the Alaska Native Claims Settlement Act. This finding was confirmed in a February 1994 report submitted by the Secretary of the Interior at the direction of the Congress. That study was conducted by the Institute of Social and Economic Research at the University of Alaska.

The Native people of Southeast Alaska have recognized the injustice of this oversight for more than 34 years. An independent study issued more than 12 years ago confirms that the grievance of the landless communities is legitimate. Legislation has been introduced in the past sessions of Congress to remedy this injustice. Hearings have been held and reports written. Yet legislation to right the wrong has inevitably stalled out. This December marks the 35th anniversary of Congress' promise to the Native peoples of Alaska, the promise of a rapid and certain settlement. And still the landless communities of southeast Alaska are landless.

I am convinced that this cause is just, it is right, and it is about time that the Native peoples of the five landless communities receive what has been denied them for going on 35 years.

The legislation that I am introducing today would enable the Native peoples of the five ''landless communities'' to organize five ''urban corporations,'' one for each unrecognized community. These newly formed corporations would be offered and could accept the surface estate to approximately 23,000 acres of land. Sealaska Corporation, the regional Alaska Native Corporation for southeast Alaska would receive title to the subsurface estate to the designated lands. The urban corporations would each receive a lump sum payment to be used as start-up funds for the newly established corporation. The Secretary of the Interior would determine other appropriate compensation to redress the inequities faced by the unrecognized communities.

It is long past time that we return to the Native peoples of southeast Alaska a small slice of the aboriginal lands that were once theirs alone. It is time that we open our minds and open our hearts to correcting this injustice which has gone on far too long and finally give the Native peoples of southeast Alaska the rapid and certain settlement for which they have been waiting.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 1746

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Unrecognized Southeast Alaska Native Communities Recognition and Compensation Act''.

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds the following:

(1) In 1971, Congress enacted the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.) (referred to in this section as the ''Act'') to recognize and settle the aboriginal claims of Alaska Natives to the lands Alaska Natives had used for traditional purposes.

(2) The Act awarded approximately $1,000,000,000 and 44,000,000 acres of land to Alaska Natives and provided for the establishment of Native Corporations to receive and manage such funds and lands.

(3) Pursuant to the Act, Alaska Natives have been enrolled in one of 13 Regional Corporations.

(4) Most Alaska Natives reside in communities that are eligible under the Act to form a Village or Urban Corporation within the geographical area of a Regional Corporation.

(5) Village or Urban Corporations established under the Act received cash and surface rights to the settlement land described in paragraph (2) and the corresponding Regional Corporation received cash and land which includes the subsurface rights to the land of the Village or Urban Corporation.

(6) The southeastern Alaska communities of Haines, Ketchikan, Petersburg, Tenakee, and Wrangell are not listed under the Act as communities eligible to form Village or Urban Corporations, even though the population of such villages comprises greater than 20 percent of the shareholders of the Regional Corporation for Southeast Alaska and display historic, cultural, and traditional qualities of Alaska Natives.

(7) The communities described in paragraph (6) have sought full eligibility for lands and benefits under the Act for more than three decades.

(8) In 1993, Congress directed the Secretary of the Interior to prepare a report examining the reasons why the communities listed in paragraph (6) had been denied eligibility to form Village or Urban Corporations and receive land and benefits pursuant to the Act.

(9) The report described in paragraph (8), published in February, 1994, indicates that—

(A) the communities listed in paragraph (6) do not differ significantly from the southeast Alaska communities that were permitted to form Village or Urban Corporations under the Act;

(B) such communities are similar to other communities that are eligible to form Village or Urban Corporations under the Act and receive lands and benefits under the Act—

(i) in actual number and percentage of Native Alaskan population; and

(ii) with respect to the historic use and occupation of land;

(C) each such community was involved in advocating the settlement of the aboriginal claims of the community; and

(D) some of the communities appeared on early versions of lists of Native Villages prepared before the date of the enactment of the Act, but were not included as Native Villages in the Act.

(10) The omissions described in paragraph (9) are not clearly explained in any provision of the Act or the legislative history of the Act.

(11) On the basis of the findings described in paragraphs (1) through (10), Alaska Natives who were enrolled in the five unlisted communities and their heirs have been inadvertently and wrongly denied the cultural and financial benefits of enrollment in Village or Urban Corporations established pursuant to the Act.

(b) PURPOSE.—The purpose of this Act is to redress the omission of the communities described in subsection (a)(6) from eligibility by authorizing the Native people enrolled in the communities—

(1) to form Urban Corporations for the communities of Haines, Ketchikan, Petersburg, Tenakee, and Wrangell under the Act; and

(2) to receive certain settlement lands and other compensation pursuant to the Act.

SEC. 3. ESTABLISHMENT OF ADDITIONAL NATIVE CORPORATIONS.

Section 16 of the Alaska Native Claims Settlement Act (43 U.S.C. 1615) is amended by adding at the end thereof the following new subsection:

''(e)(1) The Native residents of each of the Native Villages of Haines, Ketchikan, Petersburg, Tenakee, and Wrangell, Alaska, may organize as Urban Corporations.

''(2) Nothing in this subsection shall affect any entitlement to land of any Native Corporation previously established pursuant to this Act or any other provision of law.''.

SEC. 4. SHAREHOLDER ELIGIBILITY.

Section 8 of the Alaska Native Claims Settlement Act (43 U.S.C. 1607) is amended by adding at the end thereof the following new subsection:

''(d)(1) The Secretary of the Interior shall enroll to each of the Urban Corporations for Haines, Ketchikan, Petersburg, Tenakee, or Wrangell those individual Natives who enrolled under this Act to the Native Villages of Haines, Ketchikan, Petersburg, Tenakee, or Wrangell, respectively.

''(2) Those Natives who are enrolled to an Urban Corporation for Haines, Ketchikan, Petersburg, Tenakee, or Wrangell pursuant to paragraph (1) and who were enrolled as shareholders of the Regional Corporation for Southeast Alaska on or before March 30, 1973, shall receive 100 shares of Settlement Common Stock in such Urban Corporation.

''(3) A Native who has received shares of stock in the Regional Corporation for Southeast Alaska through inheritance from a decedent Native who originally enrolled to the Native Villages of Haines, Ketchikan, Petersburg, Tenakee, or Wrangell, which decedent Native was not a shareholder in a Village or Urban Corporation, shall receive the identical number of shares of Settlement Common Stock in the Urban Corporation for Haines, Ketchikan, Petersburg, Tenakee, or Wrangell as the number of shares inherited by that Native from the decedent Native who would have been eligible to be enrolled to such Urban Corporation.

''(4) Nothing in this subsection shall affect entitlement to land of any Regional Corporation pursuant to section 12(b) or section 14(h)(8).''.

SEC. 5. DISTRIBUTION RIGHTS.

Section 7 of the Alaska Native Claims Settlement Act (43 U.S.C. 1606) is amended—

(1) in subsection (j), by adding at the end thereof the following new sentence: ''Native members of the Native Villages of Haines, Ketchikan, Petersburg, Tenakee, and Wrangell who become shareholders in an Urban Corporation for such a community shall continue to be eligible to receive distributions under this subsection as at-large shareholders of the Regional Corporation for Southeast Alaska.''; and

(2) by adding at the end thereof the following new subsection:

''(s) No provision of or amendment made by the Unrecognized Southeast Alaska Native Communities Recognition and Compensation Act shall affect the ratio for determination of revenue distribution among Native Corporations under this section and the '1982 Section 7(i) Settlement Agreement' among the Regional Corporations or among Village Corporations under subsection (j).''.

SEC. 6. COMPENSATION.

The Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.) is amended by adding at the end thereof the following new section:

''URBAN CORPORATIONS FOR HAINES, KETCHIKAN, PETERSBURG, TENAKEE, AND WRANGELL

''SEC. 43. (a) Upon incorporation of the Urban Corporations for Haines, Ketchikan, Petersburg, Tenakee, and Wrangell, the Secretary, in consultation and coordination with the Secretary of Commerce, and in consultation with representatives of each such Urban Corporation and the Regional Corporation for Southeast Alaska, shall offer as compensation, pursuant to this Act, one township of land (23,040 acres) to each of the Urban Corporations for Haines, Ketchikan, Petersburg, Tenakee, and Wrangell, and other appropriate compensation, including the following:

''(1) Local areas of historical, cultural, traditional, and economic importance to Alaska Natives from the Villages of Haines, Ketchikan, Petersburg, Tenakee, or Wrangell. In selecting the lands to be withdrawn and conveyed pursuant to this section, the Secretary shall give preference to lands with commercial purposes and may include subsistence and cultural sites, aquaculture sites, hydroelectric sites, tidelands, surplus Federal property and eco-tourism sites. The lands selected pursuant to this section shall be contiguous and reasonably compact tracts wherever possible. The lands selected pursuant to this section shall be subject to all valid existing rights and all other provisions of section 14(g), including any lease, contract, permit, right-of-way, or easement (including a lease issued under section 6(g) of the Alaska Statehood Act).

''(2) $650,000 for capital expenses associated with corporate organization and development, including—

''(A) the identification of forest and land parcels for selection and withdrawal;

''(B) making conveyance requests, receiving title, preparing resource inventories, land and resource use, and development planning;

''(C) land and property valuations;

''(D) corporation incorporation and startup;

''(E) advising and enrolling shareholders;

''(F) issuing stock; and

''(G) seed capital for resource development.

''(3) Such additional forms of compensation as the Secretary deems appropriate, including grants and loan guarantees to be used for planning, development and other purposes for which Native Corporations are organized under the Act, and any additional financial compensation, which shall be allocated among the five Urban Corporations on a pro rata basis based on the number of shareholders in each Urban Corporation.

''(b) The Urban Corporations for Haines, Ketchikan, Petersburg, Tenakee, and Wrangell, shall have one year from the date of the offer of compensation from the Secretary to each such Urban Corporation provided for in this section within which to accept or reject the offer. In order to accept or reject the offer, each such Urban Corporation shall provide to the Secretary a properly executed and certified corporate resolution that states that the offer proposed by the Secretary was voted on, and either approved or rejected, by a majority of the shareholders of the Urban Corporation. In the event that the offer is rejected, the Secretary, in consultation with representatives of the Urban Corporation that rejected the offer and the Regional Corporation for Southeast Alaska, shall revise the offer and the Urban Corporation shall have an additional six months within which to accept or reject the revised offer.

''(c) Not later than 180 days after receipt of a corporate resolution approving an offer of the Secretary as required in subsection (b), the Secretary shall withdraw the lands and convey to the Urban Corporation title to the surface estate of the lands and convey to the Regional Corporation for Southeast Alaska title to the subsurface estate as appropriate for such lands.

''(d) The Secretary shall, without consideration of compensation, convey to the Urban Corporations of Haines, Ketchikan, Petersburg, Tenakee, and Wrangell, by quitclaim deed or patent, all right, title, and interest of the United States in all roads, trails, log transfer facilities, leases, and appurtenances on or related to the land conveyed to the corporations pursuant to subsection (c).

''(e)(1) The Urban Corporations of Haines, Ketchikan, Petersburg, Tenakee, and Wrangell may establish a settlement trust in accordance with the provisions of section 39 for the purposes of promoting the health, education, and welfare of the trust beneficiaries and preserving the Native heritage and culture of the communities of Haines, Ketchikan, Petersburg, Tenakee, and Wrangell, respectively.

''(2) The proceeds and income from the principal of a trust established under paragraph (1) shall first be applied to the support of those enrollees and their descendants who are elders or minor children and then to the support of all other enrollees.''.

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated such sums as shall be necessary to carry out this Act and the amendments made by this Act.

By Mr. SPECTER:

S. 1747. A bill to regulate the judicial use of presidential signing statements in the interpretation of Act of Congress; to the Committee on the Judiciary.

Mr. SPECTER. Mr President, I seek recognition today to offer the Presidential Signing Statements Act of 2007. The purpose of this bill is to regulate the use of Presidential Signing Statements in the interpretation of acts of Congress. This bill is similar in substance to the Presidential Signing Statements Act of 2006, which I introduced on July 26, 2006. The Senate Judiciary Committee also held a hearing on this topic on June 27, 2006.

I believe that this is necessary to protect our constitutional system of checks and balances. This bill achieves that goal in the following ways.

First, it prevents the President from issuing a signing statement that alters the meaning of a statute by instructing Federal and State courts not to rely on Presidential signing statements in interpreting a statute.

Second, it grants Congress the power to participate in any case where the construction or constitutionality of any act of Congress is in question and a presidential signing statement for that act was issued by (i) allowing Congress to file an amicus brief and present oral argument in such a case; (ii) instructing that if Congress passes a joint resolution declaring its view of the correct interpretation of the statute, the court must admit that resolution into the case record; and (iii) providing for expedited review in such a case.

Presidential signing statements are nothing new. Since the days of President James Monroe, Presidents have issued statements when signing bills. It is widely agreed that there are legitimate uses for signing statements. For example, Presidents may use signing statements to instruct executive branch officials how to administer a law. They may also use them to explain to the public the likely effect of a law. And, there may be a host of other legitimate uses.

However, the use of signing statements has risen dramatically in recent years. When I introduced the Presidential Signing Statement bill last year, I noted that as of June 26, 2006, President Bush had issued 132 signing statements. Since then, he has issued an additional 17 statements, for a total of 149 to date. In comparison, President Clinton issued 105 signing statements during his two terms. Moreover, President Bush's signing statements often raise objections to several provisions of a law. For example, a recent report by the Government Accountability Office released June 18, 2007, found that, for 11 appropriations acts for fiscal year 2006, President Bush issued signing statements identifying constitutional concerns or objections to 160 different provisions appearing in the acts. While the mere numbers may not be significant, the reality is that the way the President has used those statements threatens to render the legislative process a virtual nullity, making it completely unpredictable how certain laws will be enforced.

The President cannot use a signing statement to rewrite the words of a statute nor can he use a signing statement to selectively nullify those provisions he does not like. This much is clear from our Constitution. The Constitution grants the President a specific, narrowly defined role in enacting legislation. Article I, section 1 of the Constitution vests ''all legislative powers . . . in a Congress.'' Article I, section 7 of the Constitution provides that when a bill is presented to the President, he may either sign it or veto it with his objections. He may also choose to do nothing, thus rendering a so-called pocket veto. The President, however, cannot veto part of bill, he cannot veto certain provisions he does not like.

The Founders had good reason for constructing the legislative process as they did: by creating a bicameral legislature and then granting the President the veto power. According to The Records of the Constitutional Convention, the veto power was designed by our Framers to protect citizens from a particular Congress that might enact oppressive legislation. However, the Framers did not want the veto power to be unchecked, and so, in article I, section 7, they balanced it by allowing Congress to override a veto by two-thirds vote.

As I stated when I introduced the Presidential Signing Statement bill last year, this is a finely structured constitutional procedure that goes straight to the heart of our system of check and balances. Any action by the President that circumvents this finely structured procedure is an unconstitutional attempt to usurp legislative authority. If the President is permitted to rewrite the bills that Congress passes and cherry pick which provisions he likes and does not like, he subverts the constitutional process designed by our Framers.

The Supreme Court has affirmed that the constitutional process for enacting legislation must be safeguarded. As the Supreme Court explained in INS v. Chahda, ''It emerges clearly that the prescription for legislative action in article I, section 1 and 7 represents the Framers' decision that the legislative power of the Federal Government be exercised in accord with a single, finely wrought and exhaustively considered, procedure.''

So, while signing statements have been commonplace since our country's founding, we must make sure that they are not being used in an unconstitutional manner; a manner that seeks to rewrite legislation, and exercise line item vetoes.

As I have previously explained, President Bush has used signing statements in ways that have raised some eyebrows. An example is the signing statement accompanying Senator MCCAIN's ''anti-torture amendment'' to the Department of Defense Emergency Supplemental Appropriations Act, otherwise known as the ''McCain Amendment.'' In that legislation, Congress voted by an overwhelming majority, 90 to 9, to ban all U.S. personnel from inflicting ''cruel, inhuman or degrading'' treatment on any prisoner held anywhere by the United States. President Bush, who had threatened to veto the legislation, instead invited Senator MCCAIN to the White House for a public reconciliation and declared they had a mutual goal: to make it clear to the world that this government does not torture and that we adhere to the international convention of torture.''

Now from that, you might conclude that by signing the McCain amendment into law, President Bush and his administration has fully committed to not using torture. But you would be wrong. After the public ceremony of signing the bill into law, the President issued a signing statement saying his administration would construe the new law ''in a manner consistent with the constitutional authority of the President to supervise the unitary executive branch and as Commander in Chief and consistent with the constitutional limitations on the judicial power.'' This vague language may mean that, despite the enactment of the McCain Amendment, the administration may still be preserving a right to inflict torture on prisoners and to evade the International Convention Against Torture.

Now, the National Defense Authorization Bill, like the McCain amendment, has a crucial provision regarding torture: it provides that the Combatant Status Review Tribunals, CSRTs, in Guantanamo Bay ''may not consider a [detainee's] statement that was obtained through methods that amount to torture.'' See section 1023(4)(e). But

who knows how this provision will be enforced if deemed inconsistent with the unitary executive theory?

And, the McCain amendment is just the tip of the iceberg: On close examination of the same signing statement, we see that President Bush has declared the right to construe the entire Detainee Treatment Act and all provisions relating to detainees, in a manner consistent with the unitary executive theory and with his powers as Commander and Chief. This is extremely troublesome. Like the DTA, this bill has crucial sections relating to detainees. Specifically, this bill contains much-needed provisions that protect detainees' due process rights in CSRT procedures, including allowing detainees a right to legal counsel, a right to compel and cross examine witnesses, and a right to have their status determined by a military judge. Should a similar signing statement be issued to S. 1547, that all sections related to detainees will be construed in a certain way, there is really no way to know how these crucial provisions will be enforced.

We must ensure that such provisions, and for that matter, any and all provisions in this bill, are not subject to revision by a Presidential signing statement.

In addition to these examples, I have noted another instance in which a questionable signing statement was issued, for the PATRIOT Act. We passed the PATRIOT Act after months of deliberation. We debated nearly every provision, often redrafting and revising. Moreover, we worked very closely with the President because we wanted to get it right. We wanted to make sure that we were passing legislation that the executive branch would find workable. In fact, in many ways, the process was an excellent example of the legislative branch and the executive branch working together towards a common goal.

In the end, the bill that was passed by the Senate and the House contained several oversight provisions intended to make sure the FBI did not abuse the special terrorism-related powers to search homes and secretly seize papers. It also required Justice Department officials to keep closer track of how often the FBI uses the new powers and in what type of situations.

The President signed the PATRIOT Act into law, but afterwards, he wrote a signing statement that said he could withhold any information from Congress provided in the oversight provisions if he decided that disclosure would ''impair foreign relations, national security, the deliberative process of the executive, or the performance of the executive's constitutional duties.''

As I noted last year, during the entire process of working with the President to draft the PATRIOT Act, he never asked the Congress to include this language in the act. At a hearing we held last June on signing statements, I asked an executive branch official, Michelle Boardman from the Office of Legal Counsel, why the President did not ask the Congress to put the signing statement language into the bill. She simply didn't have an answer.

Given this backdrop, I believe this bill is necessary. As I noted when I introduced the Presidential Signing Statement bill last summer, this bill does not seek to limit the President's power, and it does not seek to expand Congress's power. Rather, this bill simply seeks to safeguard our Constitution.

This bill will provide courts with much-needed guidance on how legislation should be interpreted. The recent GAO report on Presidential Signing Statements found that Federal courts cited or referred to presidential signing statements in 137 different opinions reported from 1945 to May 2007. It also shows that the Supreme Court's reliance on presidential signing statements has been sporadic and unpredictable. In some cases, such as United States v. Lopez, 115 S.Ct. 1624 at 1631, 1995, where the Court struck down the Gun-Free School Zones Act, the Supreme Court has relied on Presidential signing statements as a source of authority to interpret an act, while in other cases, such as the military tribunals case, Hamdan v. Rumsfeld, 126 S.Ct. 2749 (2006), Scalia dissenting, it has conspicuously declined to do so. This inconsistency has the unfortunate result of rendering the effect of Presidential signing statements on Federal law unpredictable.

As I stated when I initially introduced the Presidential Signing Statements Act of 2006, it is well within Congress's power to resolve judicial disputes such as this by enacting rules of statutory interpretation. In fact, the Department of Defense Authorization bill already contains at least one ''rule of construction'' provision. See section 845(e). This power flows from article 1, section 8, clause 18 of the Constitution, which gives Congress the power ''To make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the government of the United States, or in any department or officer thereof.'' Rules of statutory interpretation are ''necessary and proper'' to execute the legislative power.

Several scholars have agreed: Jefferson B. Fordham, a former dean of the University of Pennsylvania Law School said, ''[I]t is within the legislative power to lay down rules of interpretation for the future;'' Mark Tushnet, a professor at Harvard Law School explained, ''In light of the obvious congressional power to prescribe a statute's terms, and so its meaning, congressional power to prescribe interpretive methods seems to me to follow;'' Michael Stokes Paulsen, an associate dean of the University of Minnesota Law School noted, ''Congress is the master of its own statutes and can prescribe rules of interpretation governing its own statutes as surely as it may alter or amend the statutes directly.'' Finally, J. Sutherland, the author of the leading multivolume treatise for the rules of statutory construction has said, ''There should be no question that an interpretive clause operating prospectively is within legislative power.''

Furthermore, any legislation that sets out rules for interpreting an act makes legislation more clear and precise, which is exactly what we aim to achieve here in Congress. Congress can and should exercise this power over the interpretation of Federal statutes in a systematic and comprehensive manner.

Put simply, this bill seeks to implement measures that will safeguard the constitutional structure of enacting legislation. In preserving this structure, this bill reinforces the system of checks and balances and separation of powers set out in our Constitution, and I urge my colleagues to support it.

By Mr. COLEMAN (for himself, Mr. DEMINT, Mr. MCCONNELL, Mr. SESSIONS, Mrs. HUTCHISON, Mr. ISAKSON, Mr. CRAIG, Mr. CHAMBLISS, Mr. GRAHAM, Mr. CORNYN, Mr. BOND, Mr. MCCAIN, Mr. COCHRAN, Mr. VOINOVICH, Mr. THUNE, Mr. COBURN, Mr. ALLARD, Mr. ROBERTS, and Mr. KYL):

S. 1748. A bill to prevent the Federal Communications Commission from repromulgating the fairness doctrine; to the Committee on Commerce, Science, and Transportation.

Mr. COLEMAN. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 1748

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Broadcaster Freedom Act of 2007''.

SEC. 2. FAIRNESS DOCTRINE PROHIBITED.

Title III of the Communications Act of 1934 is amended by inserting after section 303 (47 U.S.C. 303) the following new section:

''SEC. 303A. LIMITATION ON GENERAL POWERS: FAIRNESS DOCTRINE.

''Notwithstanding section 303 or any other provision of this Act or any other Act authorizing the Commission to prescribe rules, regulations, policies, doctrines, standards, or other requirements, the Commission shall not have the authority to prescribe any rule, regulation, policy, doctrine, standard, or other requirement that has the purpose or effect of reinstating or repromulgating (in whole or in part) the requirement that broadcasters present opposing viewpoints on controversial issues of public importance, commonly referred to as the 'Fairness Doctrine', as repealed in *General Fairness Doctrine Obligations of Broadcast Licensees*, 50 Fed. Reg. 35418 (1985).''.

By Mr. KYL:

S. 1749. A bill to amend the Federal Rules of Criminal Procedure to provide

adequate protection to the rights of crime victims, and for other purposes; to the Committee on the Judiciary.

Mr. KYL. Mr. President, I rise to introduce The Crime Victims' Rights Rules Act, which would continue the work started in The Scott Campbell, Stephanie Roper, Wendy Preston, Louarna Gillis, and Nila Lynn Crime Victims' Rights Act.

The bill would make comprehensive procedural changes to the Federal Rules of Criminal Procedure to protect crime victims' rights throughout the federal criminal process, thereby guaranteeing that crime victims' rights will be fully respected in our federal courts.

As one of the Senate sponsors of the CVRA, I know that Congress intended the Act to bring dramatic changes to the way that the federal courts treat crime victims. Fortunately, in the two-and-a-half years since that legislation became law, positive strides have been made for crime victims. For example, with funding provided by act, the National Crime Victims Law Institute has been able to support crime victims' legal clinics around the country. I am also encouraged that court decisions have recognized the importance of crime victims' rights in the process.

But while progress has been made in implementing the CVRA, at least one important step remains to be taken: The Federal Rules of Criminal Procedure must be comprehensively amended to recognize the rights of crime victims throughout the process.

The Federal rules have been described as ''the playbook'' for Federal judges, prosecutors, and defense attorneys. Currently, the Federal rules make virtually no mention of crime victims. If crime victims are to fully integrated into the daily workings of our criminal justice process, then their role in that process must be fully protected in the federal rules.

I am encouraged to see that the Federal courts have been taking some modest steps toward protecting crime victims in the Federal rules. Federal district court judge Paul Cassell initiated the process by recommending rule changes to the Advisory Committee on Criminal Rules. His comprehensive set of useful proposals appeared in an excellent law review article published in The Brigham Young University Law Review in 2005. In recent months, the Advisory Committee has adopted a few of his proposals to implement some aspects of the CVRA. These changes are expected to take effect next year.

These amendments are positive, but far more remains to be done. The Advisory Committee's six proposed amendments, five changes to existing rules and one new rule, do little more than reiterate limited parts of the statute. Crime victims have been treated unfairly in the Federal criminal justice system for far too long to be left to rely on a handful of minimal protections. To respect crime victims' rights fully in the process, it is necessary to take more decisive and comprehensive action to thoroughly amend the rules.

When Congress passed the CVRA in 2004, it promised that crime victims would have rights throughout the criminal justice process. Of particular importance, the CVRA guaranteed that crime victims would have the right to be treated with ''fairness.'' My proposed amendments would add to the Federal rules the changes needed to treat crime victims fairly. These changes to the rules would provide vital protections for crime victims without interfering with the rights of criminal defendants or the need for Federal judges to manage their dockets effectively.

One example of the bill's changes is the amendment to Rule 50 to protect the victims' right to a speedy trial. The bill would amend Rule 50 to provide: ''The court shall assure that a victim's right to proceedings free from unreasonable delay is protected. A victim has the right to be heard regarding any motion to continue any proceeding. If the court grants a motion to continue over the objection of a victim, the court shall state its reasons in the record.''

It is hard for me to see how anyone could object to this procedural change. The CVRA promised to crime victims the right ''to proceedings free from unreasonable delay.'' The bill would place that right into the Federal rules.

Another example of the kind of change that the bill would make is its amendment of Rule 21 to protect crime victims' rights in transfer decisions. In some situations, federal courts can transfer a criminal case from one district to another. The bill would amend Rule 21 to provide: ''The court shall not transfer any proceeding without giving any victim an opportunity to be heard. The court shall consider the views of the victim in making any transfer decision.''

It is again hard to understand how anyone could object to the requirement that a judge give a crime victim the chance to be heard before a case is transferred to a distant location. For example, the bill would have protected the right of the Oklahoma City bombing victims to present to the trial judge their views on whether the trial should have been transferred out of Oklahoma and, if so, to where.

The bill does not mandate any particular substantive result, leaving it to the trial judge to make the ultimate determination about whether to transfer a case. But the bill would change the process by which such decisions are made, ensuring that victims are treated fairly by giving them an opportunity to provide their views to the judge.

A further example of the changes in the bill is the amendment to Rule 48 to protect the victim's right to be heard before a case is dismissed. The bill would provide: ''In deciding whether to grant the government's motion to dismiss, the court shall consider the views of any victims.''

With this procedural change, the victim would have the opportunity to present the court any reasons why a case should not be dismissed. This right is implicit in the CVRA's mandate that crime victims be treated with fairness. It is hard to understand how a crime victim is treated with fairness if the court dismisses a case without considering the victim's position on the dismissal.

Indeed, the only case to have considered this issue reached exactly this conclusion. As United States v. Heaton explains,

> When the government files a motion to dismiss criminal charges that involve a specific victim, the only way to protect the victim's right to be treated fairly and with respect for her dignity is to consider the victim's views on the dismissal. It is hard to begin to understand how a victim would be treated with fairness if the court acted precipitously to approve dismissal of a case without even troubling to consider the victim's views. To treat a person with ''fairness'' is generally understood as treating them ''justly'' and ''equitably.'' A victim is not treated justly and equitably if her views are not even before the court. Likewise, to grant the motion without knowing what the victim thought would be a plain affront to the victim's dignity. *U.S.* v. *Heaton*, 458 F. Supp. 2d 1271, 1272 (D. Utah 2006).

I agree with Heaton that the CVRA requires that crime victims have the opportunity to submit their views to the court on any dismissal. That is why this bill would place this right specifically into the federal criminal rules.

One particularly important part of the bill is its change to Rule 17 to protect the confidential and personal records of crime victims. The Advisory Committee itself proposed an amendment to Rule 17 to create specific procedures for subpoenas directed at confidential and private information concerning crime victims.

This change was designed to prevent a recurrence of the problems that recently occurred in the Elizabeth Smart kidnapping case in Salt Lake City. My colleagues may remember this case, which involved the abduction of a teenaged girl from her home. Fortunately, she was found a year later and the suspected kidnapper apprehended. In the state criminal proceedings that followed, defense attorneys subpoenaed confidential school and medical records about Elizabeth. Because these subpoenas went directly to Elizabeth's school and hospital, she was never given the opportunity to object to them, and some confidential information was improperly turned over to defense counsel.

The Advisory Committee has recognized that this same ''end run'' around the victim could occur under the federal rules. It has therefore adopted a rule requiring notice to crime victims before their personal and confidential information is subpoenaed.

But this seeming protection has a catch: a defendant can avoid giving any notice to victim by arguing to a court, in an ex parte proceeding, that exceptional circumstances exist.

This kind of ex parte procedure raises serious ethical concerns. In fact, the American Bar Association wrote to the Advisory Committee in February urging it to make certain that crime victims receive notice and an opportunity to be heard before such subpoenas issue. As Robert Johnson, Chair of the ABA's Criminal Justice section explained, the canons of judicial ethics forbid ex parte contacts with judges on substantive matters. Mr. Johnson went on to urge the Advisory Committee to give careful consideration of the ethical violations that might occur from ex parte subpoenas:

While the proposed amendment to Rule 17 is intended to protect the interests of crime victims, the ABA urges the Committee to carefully examine the proposal to determine if the proposal regarding Rule 17 would be contrary to the Court's responsibility under Canon 3(B)(7) in allowing ex parte contact on a substantive matter. Even if the Committee decides that it is not a substantive matter, the Committee should consider whether the proposed rule would allow a tactical advantage as a result of the ex parte communication and the judge is required to promptly notify the other party of the substance of the ex parte communication and allow an opportunity to respond.

It seems that the Advisory Committee's proposed rule permitting ex parte subpoenas of personal and confidential information of crime victims in some situations might run afoul of these ethical rules. Accordingly, under the bill, crime victims would enjoy an absolute right to notice before such information as psychiatric and medical records could be subpoenaed. This is the standard process that our adversary system of justice uses.

The CVRA promised crime victims that they would enjoy ''the right to be treated with fairness and with respect for the victim's dignity and privacy.'' My bill would respect victims' dignity and privacy by giving them a court hearing before any of their confidential records could be turned over to an offender accused of victimizing them. This is not to say that such information will never be disclosed to the defense. A judge will have to make the determination whether disclosure is appropriate. But the judge would make that determination only after hearing from the prosecutor, defense counsel and most important of all the crime victim whose privacy rights are directly affected.

One of the most significant parts of the bill is its creation of a new Rule 44.1, which would provide: ''When the interests of justice require, the court may appoint counsel for a victim to assist the victim in exercising their rights as provided by law.''

This important change builds on existing Federal law. Title 28 already permits the court in a criminal case to ''request an attorney to represent any person unable to afford counsel.'' For criminal cases involving child victims, Title 18 U.S.C. section 3509 allows the appointment of a guardian to represent the child's interests. Although the statutes provide these rights, they have yet to be actually implemented so that crime victims can actually take advantage of them.

I want to be clear that I am not proposing that all crime victims should have counsel appointed for them. At the same time, though, I would think all could agree that there are situations where a trial court ought, as a matter of discretion, to have the ability to appoint legal counsel for a crime victim. For example, a crime victim might present a novel or complex claim that the courts have not yet considered. Or a crime victim might suffer from physical or mental disabilities as a result of the crime that would make it difficult for the victim to be heard without the help of an advocate.

For many years, courts have had the ability to appoint counsel for potential defendants on a discretionary basis. My bill would allow that same, well-recognized power to be used to appoint counsel for crime victims.

One last section of the bill deserves special note because it demonstrates the need for Congress to step into the rules process. The bill would amend Rule 32 to guarantee victims the right to speak at sentencing hearings.

This is a change from the more limited right that the Advisory Committee has given victims the right ''to be reasonably heard.'' The Advisory Committee's note to this provision seemingly suggests that courts would not have to give all victims the right to speak at sentencing. This more limited right runs counter to the legislative history as to how the CVRA was to operate. While the CVRA gave crime victims the right to be reasonably heard, it was the undisputed legislative intent that victims would have the right to speak. I explained on the Senate floor at the time the act was under consideration that:

It is not the intent of the term ''reasonably'' in the phrase ''to be reasonably heard'' to provide any excuse for denying a victim the right to appear in person and directly address the court. Indeed, the very purpose of this section is to allow the victim to appear personally and directly address the court.

My colleague Senator FEINSTEIN remarked at that time that my understanding was her ''understanding as well.''

The Advisory Committee's action also contravenes at least two published court decisions on this issue. In United States v. Kenna, Judge Kozinski wrote for the Ninth Circuit that the CVRA's legislative history reveals ''a clear congressional intent to give crime victims the right to speak at proceedings covered by the CVRA.'' And in United States v. Degenhardt, Judge Cassell reached the same conclusion writing for the District of Utah.

My bill would provide the right of victims to speak at sentencing hearings. Of course, prosecutors, defense counsel, and defendants have on enjoyed this right. Crime victims, too, deserve the opportunity to speak to the court to ''allocute'' as this right is called and to make sure that the court and the defendant understand the crime's full harm.

I will not take the time here to go through all of the other provisions of the bill. But I did want to highlight one important note about the appropriateness of Congress acting to amend the rules to protect crime victims. Congress enacted the CVRA in October 2004. In the almost 3 years since then, I have waited patiently to give the federal courts the first opportunity to review the need for rule changes. At the same time, though, I have made clear my position, as one of the cosponsors of the CVRA, that Congress expected significant reforms in the Federal rules. As I explained to my colleagues at that time, the crime victims' community in this country was looking to the CVRA to serve as a model for the states and a formula for fully protecting crime victims. It was because the CVRA was expected to have such a far-reaching impact that the crime victims' community was willing to defer, at least temporarily, its efforts to pass a constitutional amendment protecting victims' rights.

I made this point directly to the advisory committee in a letter I sent to Judge Levi on February 15 of this year. Thus, several months ago, I placed the Advisory Committee on notice that, if it failed to act to fully protect crime victims, Congress might step into the breach.

A few weeks ago, Judge Levi replied to my letter, and I greatly appreciate his comments and explanations. In his reply, he acknowledged that many of the proposals were worthy of close attention. He indicated, however, that the Advisory Committee was going to delay action on them for some indefinite period of time. The reasons he gave for the delay were to:

1. gather more information on precisely how the proposals would operate in specific proceedings and what effects they might have, 2. obtain empirical data substantiating the existence and nature of any problem or problems that could be addressed by rule, and 3. provide additional time for courts to acquire experience under the CVRA and to develop case law construing it.

Judge Levi also suggested that some of the proposed rule changes would have created, in his view, new ''substantive rights'' for crime victims that went beyond the CVRA.

Judge Levi's letter demonstrates why the Rules Enabling Act wisely left the final decision on how to structure rules of evidence and procedure to Congress. The letter refers to the need to ''gather more information'' and ''empirical data'' on crime victims'' issues before proceeding. While some might point out that the Advisory Committee has already had more than 2½ years to collect such data, I can appreciate the difficulty that a court rules committee can have in assessing the scope of a national problem. Congress, however, is already well-informed on the need for protecting crime victims' rights.

Congress adopted the CVRA only after 8 years of legislative efforts and hearings on the Crime Victims Rights Amendment. This record leaves Congress well positioned to recognize the need for prompt and effective action to protect crime victims.

The letter also refers to the need for courts to develop case law construing the CVRA. The problem with this approach is that the anticipated case law may never develop. Most crime victims are not trained in the nuances of the law and lack the means to retain legal counsel. Victims are often indigent and are frequently emotionally and physically harmed by the defendant's crime. They are then involuntarily forced into the middle of complicated and unfamiliar legal proceedings. To expect that in these circumstances, crime victims will often be able to undertake the kind of sophisticated and pathbreaking litigation that would be necessary to establish crime victims seems unreasonable. One of the main reasons for the CVRA was to change a legal culture that has been hostile to crime victims. To expect that this legal culture will somehow, on a case-by-case basis, welcome crime victims is unlikely. Indeed, it is ironic that while waiting for case law to ''develop,'' the Advisory Committee refused to add to the Federal rules a provision confirming the existing discretionary right of trial judges to appoint legal counsel for crime victims who need legal assistance on complicated issues.

The wait-for-caselaw approach is also troubling because it assumes that Federal court litigation will serve sufficiently to clarify the rights of victims in the Federal system. But the Federal Rules of Criminal Procedure form the template for rules of criminal procedure in states throughout the country. One of the main purposes of the CVRA was to create a model for protecting victims in the criminal justice system. Unless the text of the Federal rules themselves protects crime victims, the states will not have a model they can look to in drafting their own rules to guarantee victims fair treatment.

The final reason given for deferring action on rules changes is that the Advisory Committee thought that some of the changes might create new substantive rights better left to Congress. It's a bit of an Alphonse-and-Gaston situation: Congress says ''after you'' to the Advisory Committee, only to have the Advisory Committee say ''after you.'' To avoid an impasse that leaves crime victims unprotected, obviously someone needs to take the lead. That is why I am today introducing The Crime Victims' Rights Rules Act.

One last provision in the bill is also worth highlighting. The bill includes a sense of the Congress provision that crime victims ought to be represented on the Advisory Committee on Criminal Rules.

This point was called to my attention by Professor Douglas Beloof, a distinguished law professor at the Lewis and Clark College of Law and the Director of the well-regarded National Crime Victims Law Institute. Professor Beloof testified before the Advisory Committee in January.

He was surprised to discover at that time that, while the Justice Department, the defense bar, and judges are all represented on the Committee, there is no representative for crime victims. Not only does this leave crime victims organizations without a liaison for bringing information to the attention of the Committee, but, more important, it deprives the Committee of the valuable perspective that such a representative could bring on the rule change issues the Committee regularly considers.

With the passage of the CVRA, crime victims, no less then the Justice Department and the defense bar, became participants with recognized rights in the criminal justice process. They should, therefore, be represented directly on the Advisory Committee on Criminal Rules.

When Congress passed the CVRA, it made a commitment to crime victims that they would no longer be overlooked in the criminal justice process. Nowhere is that commitment better exemplified than in the CVRA's promise that victims will be given ''the right to be treated with fairness and with respect for the victim's dignity and privacy.'' Until the rules governing criminal proceedings in our Federal courts fully protect crime victims, that important goal will not be achieved.

I urge my colleagues to carry forward the promises made in the Crime Victims Rights Act. Crime victims' rights must be respected throughout the Federal Rules of Criminal Procedure. The Crime Victims' Rights Rules Act would amend the rules to ensure that crime victims are no longer overlooked in the federal criminal process.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 262—DESIGNATING JULY 2007 AS ''NATIONAL WATERMELON MONTH''

Mr. CHAMBLISS (for himself and Mr. ISAKSON) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 262

Whereas watermelon production constitutes an important sector of the agricultural industry of the United States;

Whereas, according to the January 2006 statistics compiled by the National Agricultural Statistics Service of the United States Department of Agriculture, the United States produces 4,200,000,000 pounds of watermelon annually;

Whereas watermelon is grown in 49 States, is purchased and consumed in all 50 States, and is exported to Canada;

Whereas evidence indicates that eating 2½ to 5 cups of fruits and vegetables daily as part of a healthy diet will improve health and protect against diseases such as cancer, high blood pressure, stroke, and heart disease;

Whereas proper diet and nutrition are important factors in preventing diseases such as childhood obesity and diabetes;

Whereas watermelon has no fat or cholesterol and is an excellent source of the vitamins A, B6, and C, fiber, and potassium, which are vital to good health and disease prevention;

Whereas watermelon is also an excellent source of lycopene;

Whereas lycopene, an antioxidant found only in a few red plant foods, has been shown to reduce the risk of certain cancers;

Whereas watermelon is a heart-healthy food that has qualified for the heart-check mark from the American Heart Association;

Whereas watermelon has been a nutritious summer favorite from generation to generation; and

Whereas it is important to educate citizens of the United States regarding the health benefits of watermelon and other fruits and vegetables: Now, therefore, be it

Resolved, That the Senate—

(1) supports the goals and ideals of ''National Watermelon Month'';

(2) calls on the Federal Government, States, localities, schools, nonprofit organizations, businesses, other entities, and the people of the United States to observe the month with appropriate programs and activities; and

(3) designates July 2007 as ''National Watermelon Month''.

Mr. CHAMBLISS. Mr. President, I rise today to introduce a resolution that will recognize July 2007 as ''National Watermelon Month.'' Watermelon production is a vital part of our Nation's agricultural sector and this resolution recognizes that fact.

According to statistics released by the National Agricultural Statistics Service of the U.S. Department of Agriculture in January 2006, the United States produces 4,200,000,000 pounds of watermelon annually. This amount of annual production is remarkable when you consider the number of actual watermelons it represents. Watermelon varieties range in size from 5 pounds to over 40 pounds, so the number produced, consumed, and exported each year is truly amazing.

Research has shown that the inclusion of fruits and vegetables in our diets is vitally important for a healthy lifestyle. Evidence indicates that eating between 2½ and 5 cups of fruits and vegetables everyday will improve health and protect against many of the diseases, especially those influenced by diet, that afflict our Nation. Watermelon provides many of the vitamins, fiber and nutrients which help prevent many of these diseases. Watermelon is also a good source of lycopene, an antioxidant that has been shown to reduce the risk of certain cancers. The health benefits associated with watermelon are so outstanding that the American Heart Association has certified watermelon as a heart-healthy food, thereby qualifying it for the heart-check certification mark.

I cannot address this body without mentioning the importance of the watermelon to my home State of Georgia. The University of Georgia College of Agricultural and Environmental Sciences Center for Agribusiness and

Economic Development recently released its 2006 Georgia Farm Gate Value Report. Watermelon ranked 16th among all Georgia commodities with a farm gate value of a little over $111 million from almost 24,000 acres of watermelon. I am also proud to represent Cordele, Georgia, which is known as the, ''Watermelon Capital of the World.''

Recognizing July as ''National Watermelon Month'' will provide the watermelon industry with many avenues to not only market their product but also educate the public about the health benefits associated with consuming watermelon through different watermelon related programs and activities. Watermelon enjoys a long history as one of our Nation's favorite foods. As Mark Twain once said, ''When one has tasted watermelon he knows what the angels eat.'' I encourage my colleagues to join me in acknowledging the wisdom of Mark Twain by supporting this resolution.

AMENDMENTS SUBMITTED AND PROPOSED

SA 2001. Mr. WEBB (for himself, Mr. DURBIN, Mrs. MCCASKILL, Mr. TESTER, Mr. KENNEDY, and Mr. BYRD) submitted an amendment intended to be proposed by him to the bill H.R. 1585, to authorize appropriations for fiscal year 2008 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table.

SA 2002. Mr. REID (for Mr. DODD (for himself and Mr. SHELBY)) proposed an amendment to the bill S. 1610, to ensure national security while promoting foreign investment and the creation and maintenance of jobs, to reform the process by which such investments are examined for any effect they may have on national security, to establish the Committee on Foreign Investment in the United States, and for other purposes.

TEXT OF AMENDMENTS

SA 2001. Mr. WEBB (for himself, Mr. DURBIN, Mrs. MCCASKILL, Mr. TESTER, Mr. KENNEDY, and Mr. BYRD) submitted an amendment intended to be proposed by him to the bill H.R. 1585, to authorize appropriations for fiscal year 2008 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle C of title X, add the following:

SEC. 1031. MINIMUM PERIODS BETWEEN DEPLOYMENT FOR UNITS AND MEMBERS OF THE ARMED FORCES FOR OPERATION IRAQI FREEDOM AND OPERATION ENDURING FREEDOM.

(a) MINIMUM PERIOD FOR UNITS AND MEMBERS OF THE REGULAR COMPONENTS.—

(1) IN GENERAL.—No unit or member of the Armed Forces specified in paragraph (2) may be deployed for Operation Iraqi Freedom or Operation Enduring Freedom unless the period between the deployment of the unit or member is equal to or longer than the period of such previous deployment.

(2) COVERED UNITS AND MEMBERS.—The units and members of the Armed Forces specified in this paragraph are as follows:

(A) Units and members of the regular Army.

(B) Units and members of the regular Marine Corps.

(C) Units and members of the regular Navy.

(D) Units and members of the regular Air Force.

(E) Units and members of the regular Coast Guard.

(b) MINIMUM PERIOD FOR UNITS AND MEMBERS OF THE RESERVE COMPONENTS.—

(1) IN GENERAL.—No unit or member of the Armed Forces specified in paragraph (2) may be deployed for Operation Iraqi Freedom or Operation Enduring Freedom if the unit or member has been deployed at any time within the three years preceding the date of the deployment covered by this subsection.

(2) COVERED UNITS AND MEMBERS.—The units and members of the Armed Forces specified in this paragraph are as follows:

(A) Units and members of the Army Reserve.

(B) Units and members of the Army National Guard.

(C) Units and members of the Marine Corps Reserve.

(D) Units and members of the Navy Reserve.

(E) Units and members of the Air Force Reserve.

(F) Units and members of the Air National Guard.

(G) Units and members of the Coast Guard Reserve.

(c) WAIVER BY THE PRESIDENT.—The President may waive the limitation in subsection (a) or (b) with respect to the deployment of a unit or member of the Armed Forces specified in such subsection if the President certifies to Congress that the deployment of the unit or member is necessary to meet an operational emergency posing a threat to vital national security interests of the United States.

(d) WAIVER BY THE MILITARY CHIEF OF STAFF.—The chief of staff of the Armed Force concerned may waive the limitation in subsection (a) or (b) with respect to the deployment of a member of the Armed Forces specified the applicable subparagraph under such subsection upon the voluntary request of the member.

SA 2002. Mr. REID (for Mr. DODD (for himself and Mr. SHELBY) proposed an amendment to the bill S. 1610, to ensure national security while promoting foreign investment and the creation and maintenance of jobs, to reform the process by which such investments are examined for any effect they may have on national security, to establish the Committee on Foreign Investment in the United States, and for other purposed; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Foreign Investment and National Security Act of 2007''.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

SEC. 2. UNITED STATES SECURITY IMPROVEMENT AMENDMENTS; CLARIFICATION OF REVIEW AND INVESTIGATION PROCESS.

Section 721 of the Defense Production Act of 1950 (50 U.S.C. App. 2170) is amended by striking subsections (a) and (b) and inserting the following:

''(a) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

''(1) COMMITTEE; CHAIRPERSON.—The terms 'Committee' and 'chairperson' mean the Committee on Foreign Investment in the United States and the chairperson thereof, respectively.

''(2) CONTROL.—The term 'control' has the meaning given to such term in regulations which the Committee shall prescribe.

''(3) COVERED TRANSACTION.—The term 'covered transaction' means any merger, acquisition, or takeover that is proposed or pending after August 23, 1988, by or with any foreign person which could result in foreign control of any person engaged in interstate commerce in the United States.

''(4) FOREIGN GOVERNMENT-CONTROLLED TRANSACTION.—The term 'foreign government-controlled transaction' means any covered transaction that could result in the control of any person engaged in interstate commerce in the United States by a foreign government or an entity controlled by or acting on behalf of a foreign government.

''(5) CLARIFICATION.—The term 'national security' shall be construed so as to include those issues relating to 'homeland security', including its application to critical infrastructure.

''(6) CRITICAL INFRASTRUCTURE.—The term 'critical infrastructure' means, subject to rules issued under this section, systems and assets, whether physical or virtual, so vital to the United States that the incapacity or destruction of such systems or assets would have a debilitating impact on national security.

''(7) CRITICAL TECHNOLOGIES.—The term 'critical technologies' means critical technology, critical components, or critical technology items essential to national defense, identified pursuant to this section, subject to regulations issued at the direction of the President, in accordance with subsection (h).

''(8) LEAD AGENCY.—The term 'lead agency' means the agency, or agencies, designated as the lead agency or agencies pursuant to subsection (k)(5) for the review of a transaction.

''(b) NATIONAL SECURITY REVIEWS AND INVESTIGATIONS.—

''(1) NATIONAL SECURITY REVIEWS.—

''(A) IN GENERAL.—Upon receiving written notification under subparagraph (C) of any covered transaction, or pursuant to a unilateral notification initiated under subparagraph (D) with respect to any covered transaction, the President, acting through the Committee—

''(i) shall review the covered transaction to determine the effects of the transaction on the national security of the United States; and

''(ii) shall consider the factors specified in subsection (f) for such purpose, as appropriate.

''(B) CONTROL BY FOREIGN GOVERNMENT.—If the Committee determines that the covered transaction is a foreign government-controlled transaction, the Committee shall conduct an investigation of the transaction under paragraph (2).

''(C) WRITTEN NOTICE.—

''(i) IN GENERAL.—Any party or parties to any covered transaction may initiate a review of the transaction under this paragraph by submitting a written notice of the transaction to the Chairperson of the Committee.

''(ii) WITHDRAWAL OF NOTICE.—No covered transaction for which a notice was submitted under clause (i) may be withdrawn from review, unless a written request for such withdrawal is submitted to the Committee by any party to the transaction and approved by the Committee.

''(iii) CONTINUING DISCUSSIONS.—A request for withdrawal under clause (ii) shall not be construed to preclude any party to the covered transaction from continuing informal discussions with the Committee or any member thereof regarding possible resubmission for review pursuant to this paragraph.

''(D) UNILATERAL INITIATION OF REVIEW.—Subject to subparagraph (F), the President or the Committee may initiate a review under subparagraph (A) of—

''(i) any covered transaction;

''(ii) any covered transaction that has previously been reviewed or investigated under this section, if any party to the transaction submitted false or misleading material information to the Committee in connection with the review or investigation or omitted material information, including material documents, from information submitted to the Committee; or

''(iii) any covered transaction that has previously been reviewed or investigated under this section, if—

''(I) any party to the transaction or the entity resulting from consummation of the transaction intentionally materially breaches a mitigation agreement or condition described in subsection (l)(1)(A);

''(II) such breach is certified to the Committee by the lead department or agency monitoring and enforcing such agreement or condition as an intentional material breach; and

''(III) the Committee determines that there are no other remedies or enforcement tools available to address such breach.

''(E) TIMING.—Any review under this paragraph shall be completed before the end of the 30-day period beginning on the date of the acceptance of written notice under subparagraph (C) by the chairperson, or beginning on the date of the initiation of the review in accordance with subparagraph (D), as applicable.

''(F) LIMIT ON DELEGATION OF CERTAIN AUTHORITY.—The authority of the Committee to initiate a review under subparagraph (D) may not be delegated to any person, other than the Deputy Secretary or an appropriate Under Secretary of the department or agency represented on the Committee.

''(2) NATIONAL SECURITY INVESTIGATIONS.—

''(A) IN GENERAL.—In each case described in subparagraph (B), the Committee shall immediately conduct an investigation of the effects of a covered transaction on the national security of the United States, and take any necessary actions in connection with the transaction to protect the national security of the United States.

''(B) APPLICABILITY.—Subparagraph (A) shall apply in each case in which—

''(i) a review of a covered transaction under paragraph (1) results in a determination that—

''(I) the transaction threatens to impair the national security of the United States and that threat has not been mitigated during or prior to the review of a covered transaction under paragraph (1);

''(II) the transaction is a foreign government-controlled transaction; or

''(III) the transaction would result in control of any critical infrastructure of or within the United States by or on behalf of any foreign person, if the Committee determines that the transaction could impair national security, and that such impairment to national security has not been mitigated by assurances provided or renewed with the approval of the Committee, as described in subsection (l), during the review period under paragraph (1); or

''(ii) the lead agency recommends, and the Committee concurs, that an investigation be undertaken.

''(C) TIMING.—Any investigation under subparagraph (A) shall be completed before the end of the 45-day period beginning on the date on which the investigation commenced.

''(D) EXCEPTION.—

''(i) IN GENERAL.—Notwithstanding subparagraph (B)(i), an investigation of a foreign government-controlled transaction described in subclause (II) of subparagraph (B)(i) or a transaction involving critical infrastructure described in subclause (III) of subparagraph (B)(i) shall not be required under this paragraph, if the Secretary of the Treasury and the head of the lead agency jointly determine, on the basis of the review of the transaction under paragraph (1), that the transaction will not impair the national security of the United States.

''(ii) NONDELEGATION.—The authority of the Secretary or the head of an agency referred to in clause (i) may not be delegated to any person, other than the Deputy Secretary of the Treasury or the deputy head (or the equivalent thereof) of the lead agency, respectively.

''(E) GUIDANCE ON CERTAIN TRANSACTIONS WITH NATIONAL SECURITY IMPLICATIONS.—The Chairperson shall, not later than 180 days after the effective date of the Foreign Investment and National Security Act of 2007, publish in the Federal Register guidance on the types of transactions that the Committee has reviewed and that have presented national security considerations, including transactions that may constitute covered transactions that would result in control of critical infrastructure relating to United States national security by a foreign government or an entity controlled by or acting on behalf of a foreign government.

''(3) CERTIFICATIONS TO CONGRESS.—

''(A) CERTIFIED NOTICE AT COMPLETION OF REVIEW.—Upon completion of a review under subsection (b) that concludes action under this section, the chairperson and the head of the lead agency shall transmit a certified notice to the members of Congress specified in subparagraph (C)(iii).

''(B) CERTIFIED REPORT AT COMPLETION OF INVESTIGATION.—As soon as is practicable after completion of an investigation under subsection (b) that concludes action under this section, the chairperson and the head of the lead agency shall transmit to the members of Congress specified in subparagraph (C)(iii) a certified written report (consistent with the requirements of subsection (c)) on the results of the investigation, unless the matter under investigation has been sent to the President for decision.

''(C) CERTIFICATION PROCEDURES.—

''(i) IN GENERAL.—Each certified notice and report required under subparagraphs (A) and (B), respectively, shall be submitted to the members of Congress specified in clause (iii), and shall include—

''(I) a description of the actions taken by the Committee with respect to the transaction; and

''(II) identification of the determinative factors considered under subsection (f).

''(ii) CONTENT OF CERTIFICATION.—Each certified notice and report required under subparagraphs (A) and (B), respectively, shall be signed by the chairperson and the head of the lead agency, and shall state that, in the determination of the Committee, there are no unresolved national security concerns with the transaction that is the subject of the notice or report.

''(iii) MEMBERS OF CONGRESS.—Each certified notice and report required under subparagraphs (A) and (B), respectively, shall be transmitted—

''(I) to the Majority Leader and the Minority Leader of the Senate;

''(II) to the chair and ranking member of the Committee on Banking, Housing, and Urban Affairs of the Senate and of any committee of the Senate having oversight over the lead agency;

''(III) to the Speaker and the Minority Leader of the House of Representatives;

''(IV) to the chair and ranking member of the Committee on Financial Services of the House of Representatives and of any committee of the House of Representatives having oversight over the lead agency; and

''(V) with respect to covered transactions involving critical infrastructure, to the members of the Senate from the State in which the principal place of business of the acquired United States person is located, and the member from the Congressional District in which such principal place of business is located.

''(iv) SIGNATURES; LIMIT ON DELEGATION.—

''(I) IN GENERAL.—Each certified notice and report required under subparagraphs (A) and (B), respectively, shall be signed by the chairperson and the head of the lead agency, which signature requirement may only be delegated in accordance with subclause (II).

''(II) LIMITATION ON DELEGATION OF CERTIFICATIONS.—The chairperson and the head of the lead agency may delegate the signature requirement under subclause (I)—

''(aa) only to an appropriate employee of the Department of the Treasury (in the case of the Secretary of the Treasury) or to an appropriate employee of the lead agency (in the case of the lead agency) who was appointed by the President, by and with the advice and consent of the Senate, with respect to any notice provided under paragraph (1) following the completion of a review under this section; or

''(bb) only to a Deputy Secretary of the Treasury (in the case of the Secretary of the Treasury) or a person serving in the Deputy position or the equivalent thereof at the lead agency (in the case of the lead agency), with respect to any report provided under subparagraph (B) following an investigation under this section.

''(4) ANALYSIS BY DIRECTOR OF NATIONAL INTELLIGENCE.—

''(A) IN GENERAL.—The Director of National Intelligence shall expeditiously carry out a thorough analysis of any threat to the national security of the United States posed by any covered transaction. The Director of National Intelligence shall also seek and incorporate the views of all affected or appropriate intelligence agencies with respect to the transaction.

''(B) TIMING.—The analysis required under subparagraph (A) shall be provided by the Director of National Intelligence to the Committee not later than 20 days after the date on which notice of the transaction is accepted by the Committee under paragraph (1)(C), but such analysis may be supplemented or amended, as the Director considers necessary or appropriate, or upon a request for additional information by the Committee. The Director may begin the analysis at any time

prior to acceptance of the notice, in accordance with otherwise applicable law.

''(C) INTERACTION WITH INTELLIGENCE COMMUNITY.—The Director of National Intelligence shall ensure that the intelligence community remains engaged in the collection, analysis, and dissemination to the Committee of any additional relevant information that may become available during the course of any investigation conducted under subsection (b) with respect to a transaction.

''(D) INDEPENDENT ROLE OF DIRECTOR.—The Director of National Intelligence shall be a nonvoting, ex officio member of the Committee, and shall be provided with all notices received by the Committee under paragraph (1)(C) regarding covered transactions, but shall serve no policy role on the Committee, other than to provide analysis under subparagraphs (A) and (C) in connection with a covered transaction.

''(5) SUBMISSION OF ADDITIONAL INFORMATION.—No provision of this subsection shall be construed as prohibiting any party to a covered transaction from submitting additional information concerning the transaction, including any proposed restructuring of the transaction or any modifications to any agreements in connection with the transaction, while any review or investigation of the transaction is ongoing.

''(6) NOTICE OF RESULTS TO PARTIES.—The Committee shall notify the parties to a covered transaction of the results of a review or investigation under this section, promptly upon completion of all action under this section.

''(7) REGULATIONS.—Regulations prescribed under this section shall include standard procedures for—

''(A) submitting any notice of a covered transaction to the Committee;

''(B) submitting a request to withdraw a covered transaction from review;

''(C) resubmitting a notice of a covered transaction that was previously withdrawn from review; and

''(D) providing notice of the results of a review or investigation to the parties to the covered transaction, upon completion of all action under this section.''.

SEC. 3. STATUTORY ESTABLISHMENT OF THE COMMITTEE ON FOREIGN INVESTMENT IN THE UNITED STATES.

Section 721 of the Defense Production Act of 1950 (50 U.S.C. App. 2170) is amended by striking subsection (k) and inserting the following:

''(k) COMMITTEE ON FOREIGN INVESTMENT IN THE UNITED STATES.—

''(1) ESTABLISHMENT.—The Committee on Foreign Investment in the United States, established pursuant to Executive Order No. 11858, shall be a multi agency committee to carry out this section and such other assignments as the President may designate.

''(2) MEMBERSHIP.—The Committee shall be comprised of the following members or the designee of any such member:

''(A) The Secretary of the Treasury.

''(B) The Secretary of Homeland Security.

''(C) The Secretary of Commerce.

''(D) The Secretary of Defense.

''(E) The Secretary of State.

''(F) The Attorney General of the United States.

''(G) The Secretary of Energy.

''(H) The Secretary of Labor (nonvoting, ex officio).

''(I) The Director of National Intelligence (nonvoting, ex officio).

''(J) The heads of any other executive department, agency, or office, as the President determines appropriate, generally or on a case-by-case basis.

''(3) CHAIRPERSON.—The Secretary of the Treasury shall serve as the chairperson of the Committee.

''(4) ASSISTANT SECRETARY FOR THE DEPARTMENT OF THE TREASURY.—There shall be established an additional position of Assistant Secretary of the Treasury, who shall be appointed by the President, by and with the advice and consent of the Senate. The Assistant Secretary appointed under this paragraph shall report directly to the Undersecretary of the Treasury for International Affairs. The duties of the Assistant Secretary shall include duties related to the Committee on Foreign Investment in the United States, as delegated by the Secretary of the Treasury under this section.

''(5) DESIGNATION OF LEAD AGENCY.—The Secretary of the Treasury shall designate, as appropriate, a member or members of the Committee to be the lead agency or agencies on behalf of the Committee—

''(A) for each covered transaction, and for negotiating any mitigation agreements or other conditions necessary to protect national security; and

''(B) for all matters related to the monitoring of the completed transaction, to ensure compliance with such agreements or conditions and with this section.

''(6) OTHER MEMBERS.—The chairperson shall consult with the heads of such other Federal departments, agencies, and independent establishments in any review or investigation under subsection (a), as the chairperson determines to be appropriate, on the basis of the facts and circumstances of the covered transaction under review or investigation (or the designee of any such department or agency head).

''(7) MEETINGS.—The Committee shall meet upon the direction of the President or upon the call of the chairperson, without regard to section 552b of title 5, United States Code (if otherwise applicable).''.

SEC. 4. ADDITIONAL FACTORS FOR CONSIDERATION.

Section 721(f) of the Defense Production Act of 1950 (50 U.S.C. App. 2170(f)) is amended—

(1) in the matter preceding paragraph (1), by striking ''among other factors'';

(2) in paragraph (4)—

(A) in subparagraph (A) by striking ''or'' at the end;

(B) by redesignating subparagraph (B) as subparagraph (C);

(C) by inserting after subparagraph (A) the following:

''(B) identified by the Secretary of Defense as posing a potential regional military threat to the interests of the United States; or''; and

(D) by striking ''and'' at the end;

(3) in paragraph (5), by striking the period at the end and inserting a semicolon; and

(4) by adding at the end the following:

''(6) the potential national security-related effects on United States critical infrastructure, including major energy assets;

''(7) the potential national security-related effects on United States critical technologies;

''(8) whether the covered transaction is a foreign government-controlled transaction, as determined under subsection (b)(1)(B);

''(9) as appropriate, and particularly with respect to transactions requiring an investigation under subsection (b)(1)(B), a review of the current assessment of—

''(A) the adherence of the subject country to nonproliferation control regimes, including treaties and multilateral supply guidelines, which shall draw on, but not be limited to, the annual report on 'Adherence to and Compliance with Arms Control, Nonproliferation and Disarmament Agreements and Commitments' required by section 403 of the Arms Control and Disarmament Act;

''(B) the relationship of such country with the United States, specifically on its record on cooperating in counter-terrorism efforts, which shall draw on, but not be limited to, the report of the President to Congress under section 7120 of the Intelligence Reform and Terrorism Prevention Act of 2004; and

''(C) the potential for transshipment or diversion of technologies with military applications, including an analysis of national export control laws and regulations;

''(10) the long-term projection of United States requirements for sources of energy and other critical resources and material; and

''(11) such other factors as the President or the Committee may determine to be appropriate, generally or in connection with a specific review or investigation.''.

SEC. 5. MITIGATION, TRACKING, AND POSTCONSUMMATION MONITORING AND ENFORCEMENT.

Section 721 of the Defense Production Act of 1950 (50 U.S.C. App. 2170) is amended by adding at the end the following:

''(l) MITIGATION, TRACKING, AND POSTCONSUMMATION MONITORING AND ENFORCEMENT.—

''(1) MITIGATION.—

''(A) IN GENERAL.—The Committee or a lead agency may, on behalf of the Committee, negotiate, enter into or impose, and enforce any agreement or condition with any party to the covered transaction in order to mitigate any threat to the national security of the United States that arises as a result of the covered transaction.

''(B) RISK-BASED ANALYSIS REQUIRED.—Any agreement entered into or condition imposed under subparagraph (A) shall be based on a risk-based analysis, conducted by the Committee, of the threat to national security of the covered transaction.

''(2) TRACKING AUTHORITY FOR WITHDRAWN NOTICES.—

''(A) IN GENERAL.—If any written notice of a covered transaction that was submitted to the Committee under this section is withdrawn before any review or investigation by the Committee under subsection (b) is completed, the Committee shall establish, as appropriate—

''(i) interim protections to address specific concerns with such transaction that have been raised in connection with any such review or investigation pending any resubmission of any written notice under this section with respect to such transaction and further action by the President under this section;

''(ii) specific time frames for resubmitting any such written notice; and

''(iii) a process for tracking any actions that may be taken by any party to the transaction, in connection with the transaction, before the notice referred to in clause (ii) is resubmitted.

''(B) DESIGNATION OF AGENCY.—The lead agency, other than any entity of the intelligence community (as defined in the National Security Act of 1947), shall, on behalf of the Committee, ensure that the requirements of subparagraph (A) with respect to any covered transaction that is subject to such subparagraph are met.

''(3) NEGOTIATION, MODIFICATION, MONITORING, AND ENFORCEMENT.—

''(A) DESIGNATION OF LEAD AGENCY.—The lead agency shall negotiate, modify, monitor, and enforce, on behalf of the Committee, any agreement entered into or condition imposed under paragraph (1) with respect to a covered transaction, based on the expertise with and knowledge of the issues related to such transaction on the part of the designated department or agency. Nothing in

this paragraph shall prohibit other departments or agencies in assisting the lead agency in carrying out the purposes of this paragraph.

''(B) REPORTING BY DESIGNATED AGENCY.—

''(i) MODIFICATION REPORTS.—The lead agency in connection with any agreement entered into or condition imposed with respect to a covered transaction shall—

''(I) provide periodic reports to the Committee on any material modification to any such agreement or condition imposed with respect to the transaction; and

''(II) ensure that any material modification to any such agreement or condition is reported to the Director of National Intelligence, the Attorney General of the United States, and any other Federal department or agency that may have a material interest in such modification.

''(ii) COMPLIANCE.—The Committee shall develop and agree upon methods for evaluating compliance with any agreement entered into or condition imposed with respect to a covered transaction that will allow the Committee to adequately assure compliance, without—

''(I) unnecessarily diverting Committee resources from assessing any new covered transaction for which a written notice has been filed pursuant to subsection (b)(1)(C), and if necessary, reaching a mitigation agreement with or imposing a condition on a party to such covered transaction or any covered transaction for which a review has been reopened for any reason; or

''(II) placing unnecessary burdens on a party to a covered transaction.''.

SEC. 6. ACTION BY THE PRESIDENT.

Section 721 of the Defense Production Act of 1950 (50 U.S.C. App. 2170) is amended by striking subsections (d) and (e) and inserting the following:

''(d) ACTION BY THE PRESIDENT.—

''(1) IN GENERAL.—Subject to paragraph (4), the President may take such action for such time as the President considers appropriate to suspend or prohibit any covered transaction that threatens to impair the national security of the United States.

''(2) ANNOUNCEMENT BY THE PRESIDENT.—The President shall announce the decision on whether or not to take action pursuant to paragraph (1) not later than 15 days after the date on which an investigation described in subsection (b) is completed.

''(3) ENFORCEMENT.—The President may direct the Attorney General of the United States to seek appropriate relief, including divestment relief, in the district courts of the United States, in order to implement and enforce this subsection.

''(4) FINDINGS OF THE PRESIDENT.—The President may exercise the authority conferred by paragraph (1), only if the President finds that—

''(A) there is credible evidence that leads the President to believe that the foreign interest exercising control might take action that threatens to impair the national security; and

''(B) provisions of law, other than this section and the International Emergency Economic Powers Act, do not, in the judgment of the President, provide adequate and appropriate authority for the President to protect the national security in the matter before the President.

''(5) FACTORS TO BE CONSIDERED.—For purposes of determining whether to take action under paragraph (1), the President shall consider, among other factors each of the factors described in subsection (f), as appropriate.

''(e) ACTIONS AND FINDINGS NONREVIEWABLE.—The actions of the President under paragraph (1) of subsection (d) and the findings of the President under paragraph (4) of subsection (d) shall not be subject to judicial review.''.

SEC. 7. INCREASED OVERSIGHT BY CONGRESS.

(a) REPORT ON ACTIONS.—Section 721(g) of the Defense Production Act of 1950 (50 U.S.C. App. 2170(g)) is amended to read as follows:

''(g) ADDITIONAL INFORMATION TO CONGRESS; CONFIDENTIALITY.—

''(1) BRIEFING REQUIREMENT ON REQUEST.—The Committee shall, upon request from any Member of Congress specified in subsection (b)(3)(C)(iii), promptly provide briefings on a covered transaction for which all action has concluded under this section, or on compliance with a mitigation agreement or condition imposed with respect to such transaction, on a classified basis, if deemed necessary by the sensitivity of the information. Briefings under this paragraph may be provided to the congressional staff of such a Member of Congress having appropriate security clearance.

''(2) APPLICATION OF CONFIDENTIALITY PROVISIONS.—

''(A) IN GENERAL.—The disclosure of information under this subsection shall be consistent with the requirements of subsection (c). Members of Congress and staff of either House of Congress or any committee of Congress, shall be subject to the same limitations on disclosure of information as are applicable under subsection (c).

''(B) PROPRIETARY INFORMATION.—Proprietary information which can be associated with a particular party to a covered transaction shall be furnished in accordance with subparagraph (A) only to a committee of Congress, and only when the committee provides assurances of confidentiality, unless such party otherwise consents in writing to such disclosure.''.

(b) ANNUAL REPORT.—Section 721 of the Defense Production Act of 1950 (50 U.S.C. App. 2170) is amended by adding at the end the following:

''(m) ANNUAL REPORT TO CONGRESS.—

''(1) IN GENERAL.—The chairperson shall transmit a report to the chairman and ranking member of the committee of jurisdiction in the Senate and the House of Representatives, before July 31 of each year on all of the reviews and investigations of covered transactions completed under subsection (b) during the 12-month period covered by the report.

''(2) CONTENTS OF REPORT RELATING TO COVERED TRANSACTIONS.—The annual report under paragraph (1) shall contain the following information, with respect to each covered transaction, for the reporting period:

''(A) A list of all notices filed and all reviews or investigations completed during the period, with basic information on each party to the transaction, the nature of the business activities or products of all pertinent persons, along with information about any withdrawal from the process, and any decision or action by the President under this section.

''(B) Specific, cumulative, and, as appropriate, trend information on the numbers of filings, investigations, withdrawals, and decisions or actions by the President under this section.

''(C) Cumulative and, as appropriate, trend information on the business sectors involved in the filings which have been made, and the countries from which the investments have originated.

''(D) Information on whether companies that withdrew notices to the Committee in accordance with subsection (b)(1)(C)(ii) have later refiled such notices, or, alternatively, abandoned the transaction.

''(E) The types of security arrangements and conditions the Committee has used to mitigate national security concerns about a transaction, including a discussion of the methods that the Committee and any lead agency are using to determine compliance with such arrangements or conditions.

''(F) A detailed discussion of all perceived adverse effects of covered transactions on the national security or critical infrastructure of the United States that the Committee will take into account in its deliberations during the period before delivery of the next report, to the extent possible.

''(3) CONTENTS OF REPORT RELATING TO CRITICAL TECHNOLOGIES.—

''(A) IN GENERAL.—In order to assist Congress in its oversight responsibilities with respect to this section, the President and such agencies as the President shall designate shall include in the annual report submitted under paragraph (1)—

''(i) an evaluation of whether there is credible evidence of a coordinated strategy by 1 or more countries or companies to acquire United States companies involved in research, development, or production of critical technologies for which the United States is a leading producer; and

''(ii) an evaluation of whether there are industrial espionage activities directed or directly assisted by foreign governments against private United States companies aimed at obtaining commercial secrets related to critical technologies.

''(B) RELEASE OF UNCLASSIFIED STUDY.—All appropriate portions of the annual report under paragraph (1) may be classified. An unclassified version of the report, as appropriate, consistent with safeguarding national security and privacy, shall be made available to the public.''.

(c) STUDY AND REPORT.—

(1) STUDY REQUIRED.—Before the end of the 120-day period beginning on the date of enactment of this Act and annually thereafter, the Secretary of the Treasury, in consultation with the Secretary of State and the Secretary of Commerce, shall conduct a study on foreign direct investments in the United States, especially investments in critical infrastructure and industries affecting national security, by—

(A) foreign governments, entities controlled by or acting on behalf of a foreign government, or persons of foreign countries which comply with any boycott of Israel; or

(B) foreign governments, entities controlled by or acting on behalf of a foreign government, or persons of foreign countries which do not ban organizations designated by the Secretary of State as foreign terrorist organizations.

(2) REPORT.—Before the end of the 30-day period beginning upon the date of completion of each study under paragraph (1), and thereafter in each annual report under section 721(m) of the Defense Production Act of 1950 (as added by this section), the Secretary of the Treasury shall submit a report to Congress, for transmittal to all appropriate committees of the Senate and the House of Representatives, containing the findings and conclusions of the Secretary with respect to the study described in paragraph (1), together with an analysis of the effects of such investment on the national security of the United States and on any efforts to address those effects.

(d) INVESTIGATION BY INSPECTOR GENERAL.—

(1) IN GENERAL.—The Inspector General of the Department of the Treasury shall conduct an independent investigation to determine all of the facts and circumstances concerning each failure of the Department of the Treasury to make any report to the Congress that was required under section 721(k) of the Defense Production Act of 1950, as in

effect on the day before the date of enactment of this Act.

(2) REPORT TO THE CONGRESS.—Before the end of the 270-day period beginning on the date of enactment of this Act, the Inspector General of the Department of the Treasury shall submit a report on the investigation under paragraph (1) containing the findings and conclusions of the Inspector General, to the chairman and ranking member of each committee of the Senate and the House of Representatives having jurisdiction over any aspect of the report, including, at a minimum, the Committee on Foreign Relations, the Committee on Banking, Housing, and Urban Affairs, and the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Foreign Affairs, the Committee on Financial Services, and the Committee on Energy and Commerce of the House of Representatives.

SEC. 8. CERTIFICATION OF NOTICES AND ASSURANCES.

Section 721 of the Defense Production Act of 1950 (50 U.S.C. App. 2170) is amended by adding at the end the following:

''(n) CERTIFICATION OF NOTICES AND ASSURANCES.—Each notice, and any followup information, submitted under this section and regulations prescribed under this section to the President or the Committee by a party to a covered transaction, and any information submitted by any such party in connection with any action for which a report is required pursuant to paragraph (3)(B) of subsection (l), with respect to the implementation of any mitigation agreement or condition described in paragraph (1)(A) of subsection (l), or any material change in circumstances, shall be accompanied by a written statement by the chief executive officer or the designee of the person required to submit such notice or information certifying that, to the best of the knowledge and belief of that person—

''(1) the notice or information submitted fully complies with the requirements of this section or such regulation, agreement, or condition; and

''(2) the notice or information is accurate and complete in all material respects.''.

SEC. 9. REGULATIONS.

Section 721(h) of the Defense Production Act of 1950 (50 U.S.C. App. 2170(h)) is amended to read as follows:

''(h) REGULATIONS.—

''(1) IN GENERAL.—The President shall direct, subject to notice and comment, the issuance of regulations to carry out this section.

''(2) EFFECTIVE DATE.—Regulations issued under this section shall become effective not later than 180 days after the effective date of the Foreign Investment and National Security Act of 2007.

''(3) CONTENT.—Regulations issued under this subsection shall—

''(A) provide for the imposition of civil penalties for any violation of this section, including any mitigation agreement entered into or conditions imposed pursuant to subsection (l);

''(B) to the extent possible—

''(i) minimize paperwork burdens; and

''(ii) coordinate reporting requirements under this section with reporting requirements under any other provision of Federal law; and

''(C) provide for an appropriate role for the Secretary of Labor with respect to mitigation agreements.''.

SEC. 10. EFFECT ON OTHER LAW.

Section 721(i) of the Defense Production Act of 1950 (50 U.S.C. App. 2170(i)) is amended to read as follows:

''(i) EFFECT ON OTHER LAW.—No provision of this section shall be construed as altering or affecting any other authority, process, regulation, investigation, enforcement measure, or review provided by or established under any other provision of Federal law, including the International Emergency Economic Powers Act, or any other authority of the President or the Congress under the Constitution of the United States.''.

SEC. 11. CLERICAL AMENDMENTS.

(a) TITLE 31.—Section 301(e) of title 31, United States Code, is amended by striking ''8 Assistant'' and inserting ''9 Assistant''.

(b) TITLE 5.—Section 5315 of title 5, United States Code, is amended in the item relating to ''Assistant Secretaries of the Treasury'', by striking ''(8)'' and inserting ''(9)''.

SEC. 12. EFFECTIVE DATE.

The amendments made by this Act shall apply after the end of the 90-day period beginning on the date of enactment of this Act.

FOREIGN INVESTMENT AND NATIONAL SECURITY ACT OF 2007

Mr. REID. Madam President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 197, S. 1610.

The PRESIDING OFFICER. The clerk will state the bill by title.

The bill clerk read as follows:

A bill (S. 1610) to ensure national security while promoting foreign investment and the creation and maintenance of jobs, to reform the process by which such investments are examined for any effect they may have on national security, to establish the Committee on Foreign Investment in the United States, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. DODD. Madam President, section 721 of the Defense Production Act, also known as the Exon-Florio amendment, Exon-Florio, established a statutory framework for the U.S. Government to analyze foreign acquisitions, mergers, and takeovers of privately owned entities within the United States to determine whether such transactions affect the national security of the United States. The Foreign Investment and National Security Act of 2007 amends section 721 for the purpose of strengthening the process by which such transactions are reviewed and, when warranted, investigated for national security concerns. In addition, the act provides for a system of congressional notification so that Congress is able to conduct proper oversight of the national security implications of foreign direct investment in the United States to ensure that it is beneficial and has no adverse impact on U.S. national security.

Exon-Florio established a four-step process for examining a foreign acquisition: (1) voluntary notice by the companies; (2) a 30-day review to identify any national security concerns; (3) an optional 45-day investigation to determine whether identified concerns require more extensive mitigation efforts or a recommendation to the President for possible action; and (4) a Presidential decision to permit, suspend, or prohibit an acquisition in those instances where potential national security concerns cannot be mitigated.

During the standard review period, CFIUS conducts a national security analysis to determine whether any national security issues exist with a particular transaction, and if so, whether those concerns can be mitigated. In practice, companies sometime ''prefile'' with CFIUS, providing information about the transaction in order to ensure that CFIUS has all necessary information during the formal review period. Further, companies may withdraw from the formal review in order to address concerns on the condition that they re-file promptly with CFIUS or abandon the transaction.

Therefore, while the vast majority of CFIUS transactions are approved by the end of the 30-day review, the total time devoted to transactions is sometimes longer. If national security concerns have not been resolved during the 30-day review, CFIUS can extend its review to a second stage 45-day investigation. At the end of a 45-day investigation, the transaction is sent to the President for a decision, accompanied by a CFIUS report and recommendation. Any transaction that goes to the President must be reported to Congress. Transactions that enter investigation may also be terminated before reaching the President, with the companies voluntarily withdrawing and abandoning the investment. Presidential decisions are also avoided in cases where a mitigation agreement has been reached during the investigation period and the companies withdraw from investigation and immediately refile.

Mitigation agreements, which are contracts with CFIUS or CFIUS agencies entered into by the parties to the transaction, are an important element of the CFIUS review and investigation process. These agreements are intended to mitigate possible national security threats posed by a transaction short of requiring that the parties abandon the transaction altogether. The Department of Defense, hereafter DOD, has for many years used various types of mitigation agreements under existing DOD authority and regulations such as the National Industrial Security Program Operating Manual, NISPOM, to address the impact of foreign ownership and control over companies that have classified contracts with the Pentagon or intelligence agencies. In recent years, the Departments of Justice and Homeland Security have also done so.

S. 1610 reinforces CFIUS's capacity to refuse, suspend, modify or reverse any transaction if a written notice of such transaction is not filed with CFIUS or if there is an intentional material omission or falsehood in connection with a completed CFIUS review or investigation, or an intentional material breach in any posttransaction mitigation agreement, and establishes a formal requirement that all filings with CFIUS must be complete and accurate to the best of the filing party's ability. Thus, the committee establishes a

clear signal that all violations of such notice certification should be considered in the context of title 18, section 1001, and all intentional breaches or misstatements could also lead to severe modification or divestment of an acquisition of a previously reviewed transaction at any time.

The bill also establishes a mechanism by which CFIUS can unilaterally reopen a transaction that had previously been approved. My expectation is that this authority will only be used in exceptional circumstances when no other remedies exist and where there has been an intentional breach that affects national security. For that reason, the bill requires important procedural safeguards to ensure that this authority is not used lightly—among other safeguards, it requires, for example, that the decision to reopen a case is made at the same level of seniority as is required in the bill for the approval of transactions. The bill makes clear that CFIUS can only reopen a transaction if these threshold tests are met.

Of necessity, the reviews and investigations, which contain classified evaluations of national security vulnerabilities as well as extensive proprietary business information, remain highly confidential. Given this lack of transparency, there have been concerns over the years about CFIUS's accountability to Congress and to the public, particularly with regard to fundamental questions of whether CFIUS policies are consistent with the statute, executive orders, and regulations that govern its operations and whether CFIUS policies are applied consistently from transaction to transaction.

CFIUS has explicit authority in the regulations to open a case in the event that CFIUS discovers there has been a material misstatement or omission in the information provided by the parties to the transaction. CFIUS agencies also have all of the remedies that are normally available under a contract in order to enforce the terms of the mitigation agreement. In addition, in a large number of CFIUS cases, and particularly those involving the Defense Department, CFIUS approvals can be effectively nullified simply by ending the federal agency's contracting relationship with the company. Defense-related contracts are often a central element of CFIUS transactions, so the threat of being denied a contract going forward ensures compliance with the terms of mitigation agreements or other conditions agreed to by the foreign investor.

On October 6, 2005, under the leadership of then-Chairman RICHARD SHELBY, the Committee on Banking, Housing, and Urban Affairs conducted a hearing into the findings of the GAO report. Discussion between the GAO witnesses and Banking Committee members further highlighted deficiencies in implementation of Exon-Florio and the level of dissatisfaction with the lack of communication between CFIUS and the appropriate oversight committees of Congress. That hearing was followed on October 20, 2005, by another hearing that allowed the Banking Committee to hear directly from many of the agencies that comprise CFIUS, including the Department of the Treasury, which has the lead role in implementing Exon-Florio, as well as private sector representatives.

In late January 2006 congressional offices became aware of the proposed acquisition of terminal operations at a number of U.S. maritime ports by Dubai Ports World, hereafter DPW, an established port operator owned by the government of the Emirate of Dubai. Concern within Congress about a transaction that would transfer control of terminal operations to a company owned by a Persian Gulf emirate through whose financial system funds had been transferred to the terrorists who carried out the September 11, 2001, attacks upon the United States, and that had been a central conduit for nuclear weapons components being smuggled to hostile regimes, provided further impetus for review of the manner in which foreign transactions were being analyzed by CFIUS.

That senior White House officials, and the Secretaries and Deputy Secretaries of the Departments of the Treasury and Homeland Security were unaware of the Dubai Ports World transaction, combined with the fact this transaction was not subjected to a formal investigation in violation of the Byrd amendment, compounded congressional concerns about the nature of the underlying transaction.

In response to congressional criticism related to the DPW case in 2006, CFIUS agencies pledged to address flaws in the CFIUS process identified by Congress. There were 113 transactions filed with CFIUS in 2006, up 74 percent from the previous year. Because companies seek CFIUS consideration voluntarily, this increase reflected greater sensitivity among foreign investors, which in turn may reflect a more aggressive stance from CFIUS. CFIUS conducted seven second-stage investigations, the same number of investigations that had been conducted over the previous five-year period. There was also an increase in the number of companies withdrawing from CFIUS reviews and investigations, which suggests a higher degree of scrutiny: either companies withdrew for the purpose of terminating the underlying transaction or in order to restructure the transaction to address CFIUS concerns.

The number of cases in which CFIUS approved transactions with conditions attached through mitigation agreements also increased. CFIUS has also increased its Congressional outreach, notifying the Congressional leadership and committees of jurisdiction upon completion of CFIUS action on each transaction. Treasury also finally produced the long-overdue quadrennial report on CFIUS-related issues as mandated by the Defense Production Act of 1950.

In response to continued concerns regarding implementation of Exon-Florio, on April 30, 2006, the Committee on Banking, Housing, and Urban Affairs reported an original bill, S. 109–264, which made significant amendments to Section 721 to strengthen the review and oversight process. Senate bill 109–264 passed the Senate on July 26, 2006. On the same day the House passed its own reform legislation, H.R. 5337. No further action occurred on the bills prior to the adjournment of the 109th Congress.

On February 28, 2007, The House once again passed legislation amending section 721 to strengthen the foreign investment review process, H.R. 556—The National Foreign Investment Reform and Strengthened Transparency Act of 2007. On May 16, 2007, the Senate Committee on Banking, Housing and Urban Affairs convened to consider and report an original bill—the Foreign Investment and National Security Act of 2007—Proposed by Chairman CHRISTOPHER J. DODD, working closely with Ranking Member RICHARD SHELBY and drawing upon the extensive work that members of the committee had undertaken on this subject in the 109th Congress.

Let me offer a brief summary of the most important provisions of the bill.

The Foreign Investment and National Security Act of 2007—

Establishes the membership of the Committee on Foreign Investment in the United States, CFIUS, in statute;

Strengthens the role of the Director of National Intelligence, hereafter DNI, by making the DNI an ex-officio member of CFIUS and requiring that the Director undertake a thorough analysis of the transaction with respect to any national security implications, engage the intelligence community, and report the DNI's findings to the committee within 20 days of the commencement of the CFIUS review. Requires the DNI to update CFIUS with any additional relevant intelligence information that becomes available during the course of a review and/or investigation;

Mandates the designation of a lead agency or agencies for each covered transaction, in addition to the Treasury Department, charged with negotiating any mitigation agreement or other conditions to ensure that national security is protected, and for follow-up compliance with the terms of the agreement after the transaction has been approved by CFIUS;

Provides for the 30-day review of covered transactions by CFIUS to determine its effects on national security, and for sign-off at the assistant secretary-level, or above, that there is no threat to national security by the proposed transaction;

Provides for the 45-day investigation of covered transactions that threaten to impair national security, including transactions involving foreign government-owned companies and control of

critical infrastructure, and for sign-off at the Deputy Secretary level that there is no threat to the national security by the proposed transaction;

Provides for certain exceptions for the requirement that a state-owned entity automatically go to the investigation stage if the Secretary or Deputy Secretary of the Treasury, and the equivalent level official in the lead agency, determine after review of the transaction that national security will not be impaired by the transaction;

Requires assessment of a country's compliance with U.S. and multilateral counterterrorism, nonproliferation and export control regimes for acquisitions by stateowned companies in the investigation stage;

Provides authority to the President to suspend or prohibit a covered transaction if there is credible evidence that such transaction threatens to impair U.S. national security;

Provides authority to CFIUS, or the lead agencies acting on behalf of CFIUS, to negotiate, impose and enforce conditions necessary to mitigate any threat to national security related to a covered transaction;

Adds to the list of factors that CFIUS should consider in the conduct of its reviews and investigation to include among other things consideration of the potential impact of a transaction on critical infrastructure, energy assets, or critical technologies;

Provides for written notice, to the Congress at the conclusion of the CFIUS process for both reviews and investigations, providing details about the transaction, including written assurance that the transaction does not threaten to impair national security or that any initial concerns have been mitigated through binding agreements between the parties and CFIUS, or the lead agency or agencies designated by the Chairman of CFIUS;

Provides for detailed annual reports to Congress on the activities of CFIUS, including information concerning the transactions that have been reviewed or investigated during the previous 12 months;

Provides for an investigation by the Inspector General of the Department of Treasury to determine why the department failed to comply with provisions of the Defense Production Act with respect to certain reporting requirements related to potential industrial espionage or coordinated strategies by foreign parties with respect to U.S. critical technology by foreign parties; and

Provides for the issuance of regulations and guidance to carry out the provisions of the Act.

Madam President, Ranking Member RICHARD SHELBY and I believe that Senate passage of S. 1610 as amended by the Dodd/Shelby substitute amendment, which is largely technical in nature, will not only implement needed reforms and thereby strengthen national security, but also provide more transparency and predictability to the CFIUS process that is important to ensuring that the U.S. economy continues to benefit from the fruits of foreign direct investment. We strongly urge our colleagues to support this important legislation.

Mr. SHELBY. Madam President, I rise in support of the Senate's passage of the Foreign Investment and National Security Act of 2007. This important bill reforms the process through which the Committee on Foreign Investment in the United States reviews foreign investment in our country. It establishes a process for reviewing foreign investment transactions that thoroughly examines issues relating to national security, involves clear lines of responsibility, and is flexible to meet the demands of the market.

I appreciate the leadership and hard work of Chairman DODD on this matter.

LABOR MANAGEMENT RIGHTS

Mr. CRAIG. Madam President, I rise today to commend Chairman DODD and Ranking Member SHELBY on their work regarding the Committee on Foreign Investment in the United States, CFIUS.

Last year, a company called Dubai Ports World sought to purchase labor management rights to several U.S. ports, a proposal that was approved by CFIUS. However, numerous Members of Congress, the media and the American public quickly and loudly voiced concerns over the way in which the CFIUS process had occurred. Because of the enormous outcry, Senator SHELBY, then Chairman of the Banking Committee, worked with then-Ranking Member Senator Sarbanes, to make the CFIUS process more transparent and much more effective.

I want to commend both Senators for their work on this legislation, and I believe that their hard work has produced legislation that will bolster American support for foreign investments.

Many different agencies within the Federal Government have the responsibility to investigate foreign investment proposals before they can be approved. Those agencies, including our intelligence community, have a serious responsibility to ensure that each proposed foreign investment in our country will not jeopardize national security. It is my understanding that currently, the Director of National Intelligence has the authority to tap any of the intelligence agencies within our Federal Government to conduct analysis of technology transfers and economic impacts of any foreign investment proposals. Senator SHELBY, is that your understanding of the responsibilities held by the Director of National Intelligence?

Mr. SHELBY. The Senator is correct. Currently the DNI can use different intelligence agencies to conduct economic analysis, including technology transfers, to ensure that such foreign investment proposals will not jeopardize our national security.

Mr. CRAIG. I thank the Senator. Madam President, the reason I bring up that concern is that I do not believe that such analyses are occurring, or that very little economic analysis is being conducted by our intelligence communities.

I am hopeful that this legislation crafted by Senators SHELBY and DODD will pass the Senate quickly and that it can be signed into law, because America should be a country that welcomes foreign investment. However, we must be absolutely certain that any investment into our country will not have a negative economic impact or impair our national security. I sincerely hope that the Director of National Intelligence will participate fully in the CFIUS process and use all available resources to ensure that all foreign investment proposals receive very thorough and timely analysis to ensure congressional and public support for increased investment in our country, while at the same time ensure our national security is not placed in jeopardy.

Again, I would like to commend the chair and ranking member of the Senate Banking Committee for their hard work and dedication to this legislation and I will strongly support its passage.

Mr. REID. Madam President, I ask unanimous consent that a Dodd-Shelby substitute amendment, which is at the desk, be agreed to, the bill, as amended, be read the third time; further, I ask unanimous consent that the Banking Committee be discharged from the consideration of H.R. 556, and the Senate proceed to its consideration; that all after the enacting clause be stricken, and the text of S. 1610, as amended, be inserted in lieu thereof; the bill, as amended, be read the third time and passed, and the motions to reconsider be laid upon the table, without any intervening action or debate; that S. 1610 be placed back on the calendar; that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 2002) was agreed to.

(The amendment is printed in today's RECORD under ''Text of Amendments.'')

The amendment was ordered to be engrossed and the bill to be read the third time.

The bill (H.R. 556), as amended, was read the third time and passed.

PASSPORT BACKLOG REDUCTION ACT OF 2007

Mr. REID. Madam President, I ask unanimous consent that the Senate proceed to Calendar No. 239, S. 966.

The PRESIDING OFFICER. The clerk will state the bill by title.

The bill clerk read as follows:

A bill (S. 966) to enable the Department of State to respond to a critical shortage of passport processing personnel, and for other purposes.

The Senate proceeded to consider the bill which had been reported from the Committee on Foreign Relations, with an amendment, as follows:

(The part of the bill intended to be stricken are shown in boldface brackets and the parts of the bill intended to be inserted are shown in italics.)

S. 966

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

[SECTION 1. SHORT TITLE.

[This Act may be cited as the ''Department of State Crisis Response Act of 2007''.

[SEC. 2. REEMPLOYMENT OF CIVIL SERVICE ANNUITANTS.

[Section 61(a) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2733(a)) is amended—

[(1) in paragraph (1), by striking ''To facilitate'' and all that follows through '', the Secretary'' and inserting ''The Secretary''; and

[(2) in paragraph (2), by striking ''2008'' and inserting ''2010''.

[SEC. 3. REEMPLOYMENT OF FOREIGN SERVICE ANNUITANTS.

[Section 824(g) of the Foreign Service Act of 1980 (22 U.S.C. 4064(g)) is amended—

[(1) in paragraph (1)(B), by striking ''to facilitate'' and all that follows through ''Afghanistan,''; and

[(2) in paragraph (2), by striking ''2008'' and inserting ''2010''.]

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Passport Backlog Reduction Act of 2007''.

SEC. 2. REEMPLOYMENT OF FOREIGN SERVICE ANNUITANTS.

Section 824(g) of the Foreign Service Act of 1980 (22 U.S.C. 4064(g)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (A), by striking ''; or'' and inserting a semicolon;

(B) in subparagraph (B), by striking the period at the end and inserting ''; or''; and

(C) by adding at the end the following new subparagraph—

''(C)(i) to provide assistance to consular posts with a substantial backlog of visa applications; or

''(ii) to provide assistance to meet the demand resulting from the passport and travel document requirements set forth in section 7209(b) of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458; 8 U.S.C. 1185 note).'';

(2) by redesignating paragraph (3) as paragraph (4); and

(3) by inserting after paragraph (2) the following new paragraph:

''(3) The authority of the Secretary to waive the application of subsections (a) through (d) for an annuitant pursuant to paragraph (1)(C) shall terminate on September 30, 2010.''.

Mr. REID. Madam President, I ask unanimous consent that the committee-reported amendment be considered agreed to, the bill, as amended, be read the third time and passed, the motion to reconsider be laid upon the table; and that any statements relating to the matter be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The committee amendment was agreed to.

The bill (S. 966), as amended, was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 966

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Passport Backlog Reduction Act of 2007''.

SEC. 2. REEMPLOYMENT OF FOREIGN SERVICE ANNUITANTS.

Section 824(g) of the Foreign Service Act of 1980 (22 U.S.C. 4064(g)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (A), by striking ''; or'' and inserting a semicolon;

(B) in subparagraph (B), by striking the period at the end and inserting ''; or''; and

(C) by adding at the end the following new subparagraph—

''(C)(i) to provide assistance to consular posts with a substantial backlog of visa applications; or

''(ii) to provide assistance to meet the demand resulting from the passport and travel document requirements set forth in section 7209(b) of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458; 8 U.S.C. 1185 note).'';

(2) by redesignating paragraph (3) as paragraph (4); and

(3) by inserting after paragraph (2) the following new paragraph:

''(3) The authority of the Secretary to waive the application of subsections (a) through (d) for an annuitant pursuant to paragraph (1)(C) shall terminate on September 30, 2010.''.

ORDER FOR STAR PRINT—S. 1710

Mr. REID. Madam President, I ask unanimous consent that S. 1710 be star printed with the changes at the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORITY TO MAKE APPOINTMENTS

Mr. REID. Madam President, I ask unanimous consent that notwithstanding the recess or adjournment of the Senate, the President of the Senate, the President pro tempore, and the majority and minority leaders be authorized to make appointments to commissions, committees, boards, conferences, or interparliamentary conferences authorized by law, by concurrent action of the two Houses, or by order of the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORITY FOR COMMITTEES TO REPORT

Mr. REID. Madam President, I ask unanimous consent that the Senate committees may report legislative and Executive Calendar business on Tuesday, July 3, from 10 a.m. to 12 noon, notwithstanding a recess or adjournment of the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECORD TO REMAIN OPEN

Mr. REID. Madam President, I ask unanimous consent that the RECORD remain open until 2 p.m. today for the introduction of legislation, submission of statements, and adding cosponsors, notwithstanding adjournment of the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR MONDAY, JULY 9, 2007

Mr. REID. Madam President, I ask unanimous consent that when the Senate completes its business today, it stand adjourned until 2 p.m. Monday, July 9; that on Monday, following the prayer and pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, and the time of the two leaders reserved for their use later in the day; that there then be a period of morning business until 3 p.m., with Senators permitted to speak therein for up to 10 minutes each, with the time equally divided and controlled between the two leaders or their designees; that at 3 p.m., the Senate proceed to consideration of H.R. 1585, as provided under a previous order.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. REID. As I mentioned this morning, and I will reiterate now, Madam President, on Monday, July 9, at 5:30 p.m., Members should expect a number of rollcall votes on judicial nominations.

ADJOURNMENT UNTIL MONDAY, JULY 9, 2007, AT 2 P.M.

Mr. REID. If there is no further business to come before the Senate today, I now ask unanimous consent that the Senate stand adjourned under the provisions of H. Con. Res. 179.

There being no objection, the Senate, at 12:51 p.m., adjourned until Monday, July 9, 2007, at 2 p.m.